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THE NEW CANON LAW

A Commentary and Summary of the New Code of Canon Law

By

Rev. STANISLAUS WOYWOD, O.F.M.

With a Preface by

Right Rev. Mgr. PHILIP BERNARDINI, J.U.D.

Professor of Canon Law at the Catholic University, Washington

New Edition, Augmented by Recent Decrees and Declarations

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PREFACE

For several months past the articles by Father Stanislaus Woywod in the *Ecclesiastical Review* have informed the clergy of the most important features of the new Code of Canon Law. The same author now gives to the public a Summary and Commentary of the whole Code. As the present volume is published mainly with a view of the needs of the clergy engaged in the care of souls, the bulk of the book has been kept as compact as possible; wherefore in such places only where explanation and comment seemed necessary they have been given, and in as brief a form as possible. Chapters which are not needed by every priest have been mentioned only with few words and *en passant,* as it were. The fourth and the fifth Book have been summed up very briefly, giving the most important points of legislation contained therein. A very complete Index will make it easy to find any desired point of law.

We heartily congratulate Father Woywod on the good work and trust that the clergy of the United States will be pleased to find in this volume a welcome means of acquiring the necessary knowledge of the new legislation of the Church.

Dr. PHILIP BERNARDINI
Professor of Canon Law at the Catholic University

Washington, D. C.

INTRODUCTION

When on May the twenty-seventh, 1917, a new *Codex Juris Canonici* was promulgated by Papal Bull, this memorable event marked the happy conclusion of a revision of the Code of Law for the Catholic Church which had taken thirteen years of the most painstaking work on the part of a large number of erudite scholars and specialists in Canon Law. The new Code is truly a monumental work, the magnitude of which will be apparent when thought is given to the truly gigantic task of revising and coordinating all the existing Church laws, including the laws of all ages since the times of the primitive Church, eliminating all those that have dropped out of use, or that have been revoked or suspended in the course of the centuries. Never before in the history of the Church was such a compilation on the same immense scope attempted. During the Middle Ages various Popes caused official collections made of laws that had been enacted within a limited period of years, but never before was the entire legislation of the Church unified and codified as it has now been done in the new *Codex*.

The Papal Bull decreed that the new book of law was to go into effect on Whitsunday, May the nineteenth, 1918. The period of time allowed before a new law after its official promulgation goes into force is known in the terminology of Canon Law as the *vacatio legis*. Canonists have generally held that for all laws promulgated by the Holy See two months' time is granted before in places outside the City of Rome the obligation of observing the law begins. For very remote countries even a longer time has been conceded, in order to let the knowledge of the law become sufficiently disseminated to make its enforcement possible. In more recent times the Holy See has in important laws frequently specified the period of the *vacatio legis*, as for instance in the case of the decree *Ne Temere* which was published about eight months before it was to be enforced. The general principle, however, valid in civil law as well as in Canon Law, is that it is the duty of subjects to keep themselves informed through the ordinary channels of information, as, for instance, official magazines and papers, what laws, amendments, decisions, etc., have been enacted

by the authorities. It is not necessary, hence, that the bishop announce to his clergy the laws and regulations passed by the supreme authority of the Church, nor can it be said that this is his duty, though for uniformity of action on part of the clergy of a diocese it is advantageous that the bishop announce to his priests the important new laws with direction to make them known on one and the same day to the people throughout the diocese.

The purpose of the new *Codex* is, to supersede all existing collections of papal laws, whether contained in the various official compilations published with the special approval of former Popes, or in the volumes of decrees and declarations published by the various Roman Congregations, or, finally, in the many existing private collections of papal laws. Only in those instances in which the new Code expressly declares that a former law on a specified subject is to be retained, are former laws to continue in force. Instances of this kind are discussed in the course of the present volume.

The benefit of the new Code is inestimable, and it will go far toward unifying and strengthening the activities of the Church, by effecting a more uniform course of action in all the important details of the Church's life. Let no one, however, labor under the impression that the Code means the legislation of the Supreme Head of the Catholic Church has now come to an end. An organization like the Catholic Church, living and laboring in the great, wide world, and guiding millions of people of all races in the way of truth, must needs adapt her work to the ever-changing conditions of peoples and times. The present Code, therefore, is not, and cannot be, the final law in all and everything, for, in as much as Canon Law is the regulation of the activities of the Church, and since these activities are changing and developing with the gradual progress of civilization, new amendments, decisions, declarations concerning the meaning of some of the laws, and exceptions and particular regulations to fit the exceptional conditions of particular countries or dioceses, must naturally be expected. The Holy Father has, however, provided (*Motu Proprio,* Sept. 15, 1917; *Acta Ap. Sed.,* vol. IX, pag. 483) that any and all new laws, as well as the possible repeal of some Canons of the new Code, also any interpretative declarations, etc., issued either by the Supreme Pontiff himself or by one of the Sacred Congregations, shall be turned over to a committee whose duty it will be to formulate the new laws, etc., into Canons, and to insert

them in the Code in their proper places, so that the Code may for all times remain the one, authoritative and complete lawbook of the Church.

The canonist will note the difference in the arrangement of matter in the new Code from the order followed in former collections of Canon Law. Previous collections were, as a rule, divided into five books, in the order of: *judex, judicium, clerus, connubia, crimen,* whereas the five books of the present Code are: *Lib. I., Normae generales; Lib. II., De Personis; Lib. III., De Rebus; Lib. IV., De Processibus; Lib. V., De Delictis et Poenis.* Reference to the laws has been made easy by short Canons, or paragraphs, numbered consecutively from beginning to end of the Code, two thousand four hundred and fourteen Canons in all, so that the number of the Canon suffices to enable one to find a certain law, no matter in what book, or under what title, this law may be placed.

The purpose of our present volume on the new Code is, mainly, to give the clergy engaged in parish work in a handy volume all that which is of practical importance for them in their daily life, in the exercise of their sacred duties that must be guided by the laws of our Holy Mother Church. Prolonged discussion and lengthy comparison with former law, such as might appeal to the student who has no other duties but his studies to attend to, are avoided in this volume. Such discussion and comparison will find proper place in a complete and thorough Commentary on the Code which the author has under consideration for future publication.

In arranging the subject-matter of this book we have faithfully adhered to the order of the new Code, in deference to the Holy Father's desire that no one introduce an arrangement differing from the Code.

THE AUTHOR.

On the Feast of St. Bonaventure, D.S., July 14, 1918.

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THE NEW CANON LAW

THE FIRST BOOK

General Principles of Canon Law

1. It is stated in the first Canon of the Code that its laws are obligatory only for Catholics of the Latin Rite, except in those points which of their very nature affect also the Oriental Church. This ruling is not new, it has obtained for many centuries. On account of the great difference in manners and customs between the peoples of the East and those of Europe, and of countries christianized by missionaries of the Latin Rite, the Holy See wisely modifies for the Oriental Church some laws in accordance with requirements. A special Congregation for the Orientals has been established at Rome to regulate the affairs of the Catholics of the various Oriental Rites. The laws on points of faith and morals, however, of their very nature bind all Catholics in union with the See of St. Peter, for in principles of faith and morals all who wish to be members of the Catholic Church can acknowledge but one guide, viz., the infallible teaching authority of the Supreme Pastor and his colleagues, the bishops, in unison with their head. (Canon 1.)

2. All liturgical laws heretofore decreed for the celebration of Holy Mass, for the Divine office and other sacred functions, retain their force, except those that are explicitly corrected in the Code. (Canon 2.)

3. Special agreements or concordats made between certain nations and the Holy See are not changed by the Code. (Canon 3.)

4. Acquired rights, privileges and indults which have been granted by the Holy See to individuals or organizations, if they are still in use and have not been revoked, remain in force unless they are explicitly abrogated in the Code. (Canon 4.)

5. Now existing immemorial customs, both particular and universal, at variance with these Canons are abolished

if the Code explicitly disapproves of them. Centenary and immemorial customs not disapproved by the Code may be tolerated, if the bishop judges that they cannot prudently be abolished. Customs disapproved by the Code are to be considered corruptions of the law and can never in future revive and obtain the force of law. Ordinary customs at variance with the laws of the Code are to be considered suppressed, unless the Code explicitly states otherwise. (Canon 5.)

6. 1°. As regards laws published prior to the Code, the general rule is that all former laws, whether particular (for instance, for a certain country, for a Religious Order, etc.) or universal, that conflict with the laws of the Code, are abolished, unless the Code explicitly rules otherwise in reference to any special law. (Canon 6, 1°.)

2°. Canons of the Code that restate former laws exactly as they were before, must be interpreted according to the approved and accepted interpretation of commentators on the old law. Canons which agree only in part with the former law are to be interpreted like the former law in the points in which they agree; but in the points in which the new law differs from the former they must be judged by their wording and context. When it is doubtful whether a law of the new Code differs from the old law, one must not deviate from the former law. (Canon 6, 2°, 3°, 4°.)

3°. All former ecclesiastical punishments, whether spiritual or temporal, corrective or punitive, *latae* or *ferendae sententiae,* of which the Code makes no mention, are held to be abolished. (Canon 6, 5°.)

4°. All other disciplinary laws which have been in force up to the present time cease to be binding, unless they are explicitly or implicitly contained in the Code. The laws contained in the approved liturgical books, however, remain in force. This part of the Canon refers to the *common law* of the Church, for the Code states in Canon 22 that particular laws, namely for dioceses, individual countries, Orders, are to remain in force unless they are opposed to the laws of the Code. (Canon 6, 6°.) (By declaration of the S. Congregation of the Holy Office, March 22, 1918, the rules and regulations concerning the oath against Modernism

prescribed by Pope Pius X., of happy memory, are to remain in force until such time when the Holy See shall otherwise ordain. *Acta Apost. Sedis,* vol. X, pag. 136.)

7. By the term "Apostolic See" or "Holy See," wherever it occurs in the Code, is meant not only the Roman Pontiff but also, unless the context proves the contrary, the Sacred Congregations, the Roman Tribunals and Offices, through which the same Roman Pontiff does usually transact the affairs concerning the universal Church. (Canon 7.)

TITLE I.

Principles of Ecclesiastical Laws.

8. The laws are instituted when they are promulgated. A law is not presumed to be personal but rather territorial unless the law indicates that it is to be considered personal. In the common law of the Church it makes little difference whether a law is personal or territorial, but in particular laws for dioceses or countries the distinction is important for the reason that the law, if territorial, does not bind outside the limits of the diocese or country. (Canon 8.)

9. The laws issued by the Holy See are promulgated by being published in the official magazine of the Holy See, the *Acta Apostolicae Sedis,* unless a special mode of promulgation should be prescribed in special cases. The laws do not begin to bind in conscience until three months from the date of the number of the magazine containing the law have elapsed, unless the nature of the law is such that its immediate enforcement is evident, or the law itself should provide a longer or shorter period of "vacation." (Canon 9.)

10. Laws concern future actions and not those done before the law was made, unless they make special mention of past actions. (Canon 10.)

11. Those laws only are to be considered invalidating or inhabilitating which explicitly or equivalently state that an action is null and void, or that a person is incapable of acting. (Canon 11.)

12. Unbaptized persons are not held to laws which are purely Church laws, nor baptized persons who have not a sufficient use of their mind, nor children under seven years

of age though they may have sufficient knowledge and judgment, unless the law does in some instances declare the latter to be held to its observance. (Canon 12.) The word *purely* is to be emphasized in this Canon, because laws which are an explanation or application of the natural or the positive Divine law bind every human being as soon as there is sufficient understanding of the law and consequent responsibility, apart from any definite age. Wherefore also the Committee for the Interpretation of the Code answered the Bishop of Valleyfield, January 3, 1918, that children who had the sufficient use of their reason before seven years of age were held to make their Easter duty even before they were seven years of age. (*Eccl. Review,* March 1918, pag. 313.)

13. The general laws of the Church bind all persons for whom they are issued anywhere in the world. Laws issued for a particular territory, e. g., a diocese or a nation, bind those persons who have a domicile or a quasi-domicile in that territory and actually live there. For those who are absent from their own place for a while the following Canon provides. (Canon 13.)

14. Those persons who have a domicile or quasi-domicile but are for a time staying in another place are called in law "peregrini." They are not held to the observance of the particular laws of their own diocese or country while absent unless the transgression of these regulations causes some harm in their own place, or in case the laws are personal. They are not held to the particular laws of the diocese or country in which they are travelling with the exception of those laws that concern public order or determine the formalities of legal transactions. They are, however, bound to observe the general laws of the Church, even those that have been abolished for their own place. Thus, for instance, an American travelling in Europe is bound to observe the holidays of obligation, fasts, etc., that may by papal indult have been abolished in America. On the other hand, the *peregrinus* enjoys the dispensations from the general law in the country where he actually stays, even though there are no such dispensations granted to the diocese or country where he ordinarily resides. Those who have neither a domicile

nor a quasi-domicile in any place are called *vagi.* They are bound to observe both the general and the particular laws that are in force in the place where they actually stay. (Canon 14.)

15. All laws, even those that invalidate an action or inhabilitate a person to act, do not oblige in doubt of law (*dubium juris*); in a doubt of fact (*dubium facti*) the Ordinary may dispense, provided there is question of laws from which the Roman Pontiff usually dispenses. (Canon 15.)

16. No ignorance of invalidating or inhabilitating laws excuses unless the law explicitly admits ignorance as an excuse. Likewise ignorance or error is not presumed when it concerns the law or its penalty, or one's own action, or the notorious action of another; concerning the non-notorious action of another, ignorance is presumed until the contrary is proved. This rule applies mostly to cases where the delinquent is brought to court for the transgression of a law. How far ignorance of the censure attached to the violation of a law excuses is specified in Canon 2229. (Canon 16.)

17. Laws are authoritatively interpreted by the lawgiver and by those to whom the power of interpreting has been committed. Authoritative interpretation of a law given in the form of law has the same force as the law itself. If such authoritative interpretation merely declares the meaning of the words of law that are certain, the interpretation does not need a new promulgation and reacts on past actions; if the interpretation restricts, or extends, the law or explains a doubtful point of the law, it does not react on past actions and is regarded like a new law, so that it must be promulgated in order to have binding force. An interpretation of the law given by way of a judicial sentence, or by a rescript in some special case, has not the force of law and binds only the persons and affects only those matters for which it was issued. (Canon 17.)

18. Ecclesiastical laws must be interpreted according to the proper meaning of the terms of the law considered in their context. If that meaning remains obscure, one must have recourse to parallel citations of the Code if there are any, or to the purpose and circumstances and the intention of the law-maker. (Canon 18.)

19. Laws that establish a penalty or restrict the free exercise of one's rights, or establish an exception from the law must be interpreted in a strict sense. It has always been an axiom of interpretation of Canon Law that odious laws are to be explained in such a sense as not to unduly extend them to cases not strictly covered by the words of the law, while in favorable laws a more benign interpretation is allowed. (Canon 19.)

20. If there is no definite rule of law, neither in the general nor in the particular law, concerning some affair, a norm of action may be taken from laws given in similar cases, from the general principles of law applied with the mildness proper to Canon Law, from the manner and custom of handling similar cases in the Roman Curia, and from the common and accepted teaching of doctors. In the application of penalties, however, this liberal interpretation must not be adopted. (Canon 20.)

21. Laws made in order to safeguard the faithful against what is commonly dangerous, oblige even though in a particular case there is no danger. An example of this kind is the law of the Church forbidding bad books of various kinds. Though there may positively be no danger for some particular individual to read such a book, he is not thereby entitled to read it unless he has obtained a dispensation from the law. (Canon 21.)

22. A more recent law given by the competent authority abolishes a former law when it explicitly makes a statement to that effect, or when it is directly contrary to the former law, or, finally, when it takes up and readjusts the entire subject matter of the law. A general law, however, does not abolish laws for particular places or the statutes of inferior legislators, e. g., of bishops, unless the general law is either directly opposed to the special law, or the general law explicitly revokes the particular law. The Code, therefore, does not abolish the decrees of National and Provincial Councils, nor diocesan statutes, rules and constitutions of Orders, except in as far as they may in some points be against the Canons, or in points where the Code explicitly states that notwithstanding particular laws the Code is to be followed. (Canon 22.)

23. In a doubt whether the former law has been revoked the repeal of the law is not to be presumed, but the more recent law is to be, as far as possible, conciliated with the former law, so that one may supplement the other. (Canon 23.)

24. Precepts given to individuals bind them wherever they go, but they cannot be urged in a canonical trial, and they expire with the expiration of authority of the one imposing the precept, unless they are given in the form of a legal document, or before two witnesses. (Canon 24.)

TITLE II.

Customs.

25. In order that a custom may assume the force of law in the Church, it must receive the consent of the competent ecclesiastical superior. (Canon 25.)

26. Only those communities (dioceses, Religious Orders, etc.) that are capable of (receiving) laws, that is to say, governed by laws, can introduce customs that have the force of law. (Canon 26.)

27. No custom can abrogate or modify the Divine law, either positive or natural. In order that a contrary custom may have the power to change Church laws, it must be (1°.) reasonable, and (2°.), lawfully prescribed by a continuous and uninterrupted usage of at least forty years' duration. (In the forme rlaw the period of time required for usages to obtain the force of law was not definitely specified, wherefore there was a great diversity of opinion of canonists on this point. The majority of authors conceded that the period of ten years was sufficient, provided the other conditions were present, to abolish a law by contrary custom. The new Code demands forty years for any custom either *contra* or *praeter jus* to become law.)

Against a law of the Church which contains a clause forbidding contrary customs for the future, only a reasonable custom that is either immemorial or of a hundred years' standing can obtain the force of law. A custom which is explicitly disapproved in law is not considered reasonable. (Canon 27.)

28. Customs *praeter jus,* that is to say, such usages as are not against a law, but outside it, and which have been knowingly introduced by a community with the intention of binding itself, become law if they are reasonable and lawfully prescribed by forty continuous and complete years. (Canon 28.)

29. Custom is the best interpreter of laws. (Canon 29.)

30. With the exception laid down in Canon 5, the general principle is that a custom against the law, or outside the law (*praeter jus*), is revoked by a contrary custom or a contrary law. A law does not, however, abrogate centenary or immemorial customs, nor does a general law abolish particular customs, unless the law specially mentions such customs. (Canon 30.)

TITLE III.

Manner of Reckoning Time.

31. Apart from the liturgical laws, time is to be reckoned according to the following rules, unless the Canons explicitly prescribe an exception. (Canon 31.)

32. A day consists of twenty-four consecutive hours, to be counted from midnight to midnight; and a week consists of seven days. A month in law means a period of thirty days; a year, three hundred and sixty-five days, unless month and year are ordered to be taken according to the calendar. (Canon 32.)

33. In reckoning the hours of the day the common custom of the place is to be observed, but in the private celebration of Holy Mass, in the private recitation of the Divine Office, in receiving Holy Communion, and in the observance of the law of fast and abstinence, one may follow also the local true time or the mean time, or the legal or any other of the several ways of marking time. Naturally, midday and midnight fall earlier or later as one travels East or West. For business purposes the local natural or true time is not practical, wherefore so-called Standard Time is followed in the United States, in which we have four zones, namely, Eastern, Central, Mountain, and Pacific Standard Time, each of the three latter marking a difference

of one hour under the previous one. The difference between the standard and the local true time varies with the location of the towns and cities within the respective zones. Thus it may be twelve o'clock midnight by Standard Time when according to the local true time it is only twenty minutes, or a quarter, to twelve. The Code gives us the benefit of the difference in the observance of the fast, the recitation of the Divine Office, etc.

The time for determining the obligation arising from contracts is to be reckoned according to the rules of the civil law of each country, unless a special agreement has been made on this point. (Canon 33.)

34. If the month or the year is designated in law by its proper name or its equivalent, for example, "the month of February," "the following year," they are taken as in the calendar.

If the *terminus a quo* is neither implicitly nor explicitly assigned, for instance, suspension from the celebration of Holy Mass for a month or for two years, three months' vacation in a year, and the like, the time is to be calculated from moment to moment; and if, as in the first example, the time is continuous, the month and the year are taken as in the calendar; if the period of time is intermittent, a week means seven days, a month thirty days and a year three hundred and sixty-five days.

If the time consists of one or several months or years, one or several weeks, or several days, and the *terminus a quo* is explicitly or implicitly fixed, the following rules obtain: (1) the month and year are taken as in the calendar; (2) if the *terminus a quo* coincides with the beginning of the day, for example, two months' vacation from the fifteenth of August, the first day shall be counted in the number of days and the time expires with the *beginning* of the last day of the same number; (3) if the *terminus a quo* does not coincide with the beginning of the day, for instance, the fourteenth year of age, the year of novitiate, eight days from the vacancy of a bishopric, ten days for appeal, etc., the first day shall not be counted and the time expires when the last day of the same number is *ended;* (4) if the month should not have the same number of days, for example, one month from the thirtieth of January, the time expires either with

the beginning or the end of the last day of the month, as the case may be; (5) if there be question of actions of the same kind to be repeated at stated intervals, for instance, a three-year term from the taking of temporary vows to the taking of perpetual vows, three or more years between elections, etc., the time expires on the same day of the month on which the period began; but the new action may take place any time during the last day. The fact, therefore, that a profession took place early in the morning or late in the day does not oblige one to wait for the same hour for the renewal of vows. The same holds in case of elections, etc. (Canon 34.)

35. The term *tempus utile* means that the time for the exercise or prosecution of one's rights does not elapse if one was ignorant of the rights, or could not act at the time. The term *tempus continuum* in law means a space of time that does not suffer any suspension by reason of one's ignorance or impossibility to act. (Canon 35.)

TITLE IV.

Rescripts.

Canons 36-62 of this title state the general principles concerning rescripts by which the Holy See or other Ordinaries grant dispensations and various other favors.

I shall direct attention to the most important points.

36. Favors and dispensations of any kind granted by the Holy See avail even those who are under censure with the following exceptions: An *excommunicatus vitandus,* a person excommunicated by a condemnatory or declaratory sentence of the ecclesiastical judge, cannot validly receive any favor from the Holy See unless the papal rescript states that it shall be valid notwithstanding the excommunication of the recipient; the same rule applies to those personally interdicted or suspended by sentence in the ecclesiastical court. (Canon 36.)

37. Rescripts by which a favor is granted without requiring the ministry of an executor take effect from the moment that the rescript is issued; other rescripts from the time of execution. (Canon 38.)

38. Conditions demanded in the rescripts are essential for their validity in such cases only where they are expressed by the particles, *"si," "dummodo,"* or others of the same signification. (Canon 39.)

39. All rescripts are considered as given upon condition *"si preces veritate nitantur,"* that the reasons given in the petition are based on truth. There are two exceptions to this rule: (1) Canon 45 states that a rescript given with the clause *"motu proprio"* is valid even though in the petition things are not explained that otherwise are demanded. If, however, the only motive reason under the plea of which the rescript is requested is false, the rescript is invalid with the exception (2) of dispensations from marriage impediments of lesser degree, which are valid even though all reasons or motives advanced to obtain the dispensations are falsehoods. Canon 1042 explains which are impediments of lesser degree in marriage. (Canon 40.) Cf. Canon 1054.

40. If one of the Roman Congregations or Offices refuses a favor asked of them, the same favor cannot be petitioned from and granted by any other of the Sacred Congregations, nor even by one's own bishop who may have delegated faculties, unless the Sacred Congregation of which the favor was first asked gives its consent. (Canon 43.)

41. The granting of a favor that was first asked of and refused by the vicar general and later obtained from the bishop, without mentioning that application had been made first to the vicar general and refused, is *invalid.* A favor that has been refused by the bishop cannot validly be granted by the vicar general, even though the petitioner makes known to him the bishop's refusal. (Canon 44.)

42. Rescripts are no longer considered invalid on account of an error in the name of the person to whom, or by whom, the favor is granted, or a mistake in the place of residence, or a mistake concerning the object of the concession, so long as, in the prudent judgment of the bishop, there is no doubt concerning the identity of the person and the object of the favor. (Canon 47.)

43. A rescript of the Apostolic See in which no executor is demanded need not be exhibited to the Ordinary of the person obtaining the document, except this is demanded

in the document or there is question of public affairs e. g., publication of an indulgence granted to a church or place, or, finally, if a favor is granted for the use of which the bishop has a right to examine required conditions, e. g., a concession to keep the Blessed Sacrament, celebrate Holy Mass in a private oratory, etc., in which cases the law gives the bishop the right and the duty to see that the requirements of Canon Law are complied with. This Canon does not demand the presentation under pain of invalidity; unless, therefore, it is demanded in the rescript itself in terms importing invalidity, the neglect to comply with the ruling of the present Canon would not invalidate the rescript, but such neglect is sinful. (Canon 51.)

44. Rescripts must be understood according to the proper meaning of their words and the common usage of the language, and must not be extended to other cases besides those expressly mentioned. (Canon 49.)

45. When doubt arises as to the meaning of the words of a rescript those rescripts having reference to cases in court, or to matters which hurt the acquired right of others, or those that concede to a private individual favors contrary to the law, or, finally rescripts obtained for the purpose of securing an ecclesiastical benefice, must be strictly interpreted; all other rescripts may receive a benign interpretation. (Canon 50.)

46. If in a rescript the mere office of execution is committed to some one, e. g., bishop, confessor, the execution of the rescript cannot be refused, unless it is evident that the rescript is null and void on account of a lie, or of concealing the truth, or if there are conditions demanded in the rescript which the executor knows have not been complied with by the recipient of the document, or the latter is in the judgment of the executor so unworthy of the favor that its concession would be a scandal to others. In the last mentioned circumstance the executor shall at once inform the official granting the rescript and in the meantime suspend its execution. If in the rescript the granting of the favor is left to the executor, so that he is delegated to dispense, he shall according to his own judgment and conscience either grant or deny the favor. (Canon 54.)

47. Favors granted through a rescript are not revoked by a contrary law, unless it is otherwise stated in the law, or unless the law was made by the superior of the grantor. (Canon 60.)

48. Vacancy of the Holy See, or of the bishopric, does not invalidate rescripts given by the deceased pontiff or bishop, unless the terms of the rescript state otherwise, or unless the rescript gives power to a delegate to grant the favor to individuals specified in the document and the delegate or executor had not begun to exercise his power before the death of the Pope or the bishop, as the case may be. As soon as the rescript has been presented to the individual so delegated the case is opened, and he can act even though the Pope or the bishop who granted the rescript should die or resign their office. (Canon 61.)

TITLE V.

Privileges.

Canons 63-79 under this head deal with the question of privileges, which are favors, either against law or outside of law, which a person or a community enjoys without limit of time.

49. Privileges can be acquired not only by direct concession but also by communication, by legitimate custom, and prescription. However, Canon 613 states as an exception to this rule that between Religious Orders the communication of privileges is revoked, and that each Order shall have only what is conceded by the Code, and the favors that have been directly granted to the Order. (Canon 63.)

50. The habitual faculties which are granted either *in perpetuum* or for a definite period of time, or for a certain number of cases, are counted among the privileges *praeter jus*. This consideration allows a liberal interpretation of such faculties; whereas, if they were to be considered *contra jus*, their explanation would have to be strict. Unless they are given personally to the bishop, or otherwise restricted to him, the vicar general has the same faculties. (Canon 66.)

51. Doubts concerning privileges must be solved ac-

cording to Canon 50, which decrees that rescripts as well as privileges that injure the acquired rights of a third party, or such that are against the law, in favor of private individuals, are to receive a strict interpretation. Any privilege, however, must be so explained that the privileged party does derive some benefit from the privilege. (Canon 68.)

52. No one is obliged to make use of a privilege that is granted for his own personal benefit, unless the duty to make use of it arises from another source. (Canon 69.)

53. By a general law are revoked the privileges contained in the Code. Particular privileges are not revoked by a general law, unless the law explicitly revokes all contrary privileges, or unless they were granted by an inferior authority. (Canon 71.)

54. Privileges cease by renunciation accepted by the competent superior. Privileges granted only for any private individual's own benefit may be renounced by this individual. Those granted to any community, dignity or place, private individuals are not allowed to renounce; nor is a community or body of persons free to renounce privileges given to them in the form of law, for instance, the exemption granted to the regulars, or when the renunciation is prejudicial to the Church, or to other persons. (Canon 72.)

55. Privileges do not cease by the fact that the one granting them dies, or in any other way loses his jurisdiction, unless they were granted with the clause *"ad beneplacitum nostrum,"* or another equivalent clause. Thus, for instance, faculties granted to a priest by the bishop without such a clause continue though the bishop dies or is transferred to another see. (Canon 73.)

56. Privileges may also terminate if, according to the judgment of the superior, in the course of time circumstances change to such an extent that the privilege becomes harmful or its use illicit. Finally, privileges cease when the time expires for which they were granted, or the number of cases for which faculties were given is exhausted. One exception to this rule is made in Canon 207, §2, where the Code benignly supplies jurisdiction, if, in his faculties for the internal forum, the priest through inadvertence makes use of the

faculties though the time for which they were granted has elapsed, or the number of cases has been exhausted. (Canon 77.)

TITLE VI.

Dispensations.

57. Dispensation, which is the relaxation of a law in a particular case, can be granted by the law-giver, by his successor or his superior, and by those whom they have delegated. (Canon 80.)

58. From the general laws of the Church, Ordinaries inferior to the Roman Pontiff cannot dispense, not even in a particular case, unless this power has been conceded to them implicitly or explicitly, or when recourse to the Holy See is difficult and there is at the same time danger of causing great harm by the delay, and the case is one in which the Holy See usually dispenses. (Canon 81.)

59. Bishops and other local Ordinaries can dispense from diocesan laws, from the laws of Provincial and National Councils; but they cannot dispense from laws which the Roman Pontiff has published for a particular country or diocese, except in cases indicated in the preceding Canon. (Canon 82.)

60. Pastors cannot dispense either from a general law of the Church nor from special laws of country or diocese, unless this power has expressly been conceded to them. By custom introduced from time immemorial and confirmed by Canon 1245, pastors can dispense their parishioners in individual cases from the fast and abstinence and from the law forbidding servile work on Sundays and holidays of obligation. (Canon 83.)

61. Dispensations from the law of the Church should not be given without a just and reasonable cause, which should be in due proportion to the gravity of the law from which dispensation is granted. Dispensations granted by an inferior without just cause are both illicit and invalid, while the law-giver himself may always validly dispense from his laws, though also he sins by dispensing a subject from the law without a good reason. When it is doubtful whether the reason for a dispensation is sufficient, the in-

dividual is allowed to ask for the dispensation and the superior may validly and licitly grant the same. (Canon 84.)

62. Dispensations must be interpreted according to Canon 50, and also the faculties to grant dispensations must be strictly interpreted. (Canon 85.)

63. Dispensations extending for some length of time cease not only for the same reason as a privilege, but also *whenever it is certain that the reason for the dispensation has entirely ceased to exist,* e. g., dispensation from reciting the Divine Office, fast, etc., in case of ill health, when the dispensation ceases of itself after complete recovery. (Canon 86.)

THE SECOND BOOK

Laws Concerning Persons

64. By baptism a person becomes a subject of the Church of Christ, with all the rights and duties of a Christian, unless as far as rights are concerned there is some obstacle impeding the bond of communion with the Church, or a censure inflicted by the Church. (Canon 87.)

65. A person who has reached the age of twenty-one years is called of major age; under twenty-one he is called a minor. A boy reaches the age of puberty when fourteen years of age, a girl at the completion of the twelfth year. Children under seven years of age are spoken of in law as infants, *"puer, parvulus,"* and they are not considered responsible for their actions. When fully seven years of age, the law presumes that the child has the sufficient use of reason to be responsible. Persons habitually devoid of the use of reason are in law held equal to infants. (Canon 88.)

66. A person of major age has the full exercise of his rights, the minor remains subject to the parents or guardian in the exercise of his rights, except in matters in which the law exempts minors from the paternal power. (Canon 89.)

67. By *locus originis* is meant the place where the father, or in case of illegitimate and of posthumous children the mother, had a domicile, or in defect of a domicile a quasi-domicile. If there is question of children of *vagi* the very place of birth is the place of origin; of exposed children the place where they were found. In the case of converts the same rules obtain. The opinion of canonists who have held that the place of baptism of adults might be considered as their *locus originis* must therefore be corrected. (Canon 90.)

68. A person is called an *incola* in the place where he has a domicile; *advena* in the place where he has a quasi-domicile; a *peregrinus,* if he is actually outside the place of domicile or quasi-domicile which he still retains; *vagus,* if he has nowhere a domicile nor quasi-domicile. (Canon 91.)

69. A *domicile* is acquired by residence in some parish or quasi-parish, or at least in a diocese, vicariate-apostolic or prefecture-apostolic, which residence must be acquired with the intention to stay there forever unless something calls him away, or it must be the actual residence of ten complete years. (Canon 92.)

A *quasi-domicile* is acquired by residence in a parish or a diocese with the intention to stay there for the greater part of the year unless something should call one away, or by having actually lived there for the greater part of the year.

The domicile or quasi-domicile in a parish or quasi-parish is called *parochial;* in the diocese, vicariate or prefecture, though not in the same parish or quasi-parish, is called *diocesan.* The diocesan domicile is new in the language of Canon Law.

70. The wife, if not lawfully separated from the husband, necessarily shares the domicile of her husband; the insane that of his guardian; the minor that of the person in whose charge he is. A minor can after the years of infancy acquire a quasi-domicile of his own; a quasi-domicile can be acquired by the wife not legally separated, while the legally separated wife can acquire a domicile of her own. (Canon 93.)

71. Through domicile or quasi-domicile each of the faithful gets his proper pastor and Ordinary. The proper pastor and Ordinary of the *vagi* are the pastor and bishop of the place where the *vagus* actually stays. Those also who have but a diocesan domicile, or quasi-domicile, have for their proper pastor the one in whose parish they actually stay. (Canon 94.)

72. Domicile and quasi-domicile are lost by the act of leaving the place with the intention not to return there. Minors and married women are an exception, as stated in Canon 93. (Canon 95.)

73. Consanguinity is traced by lines of descent and degrees. In the direct line there are as many degrees as there are generations, or, in other words, as many degrees as there are persons, not counting the *stipes* or head of the line. In the branch lines there are as many degrees as there are generations in one line, if the distance from the common parent is equal; if the distance is not equal, there are as many degrees as there are generations in the longer line. (Canon 96.)

74. Affinity arises from a valid marriage and it makes

no difference whether it be only a *matrimonium ratum* or also *consummatum.* Affinity exists only between the husband and the blood relations of his wife, and the wife and the blood relations of her husband. Brothers, sisters, etc., of husband and wife do therefore not enter into any affinity with each other. The degrees of affinity are numbered in the same way as the consanguinity, so that the blood relations of the husband become the *affines* of the wife in the same line and degree as they are standing towards the husband; and *vice versa.* (Canon 97.)

75. To determine to which of the various Catholic Rites a person belongs, baptism decides, so that one belongs to that Rite in which he was baptized, unless perhaps baptism was administered by a priest of another Rite who was not entitled to baptize that person, or baptism was given in case of necessity where no priest of the proper Rite could be secured, or, finally, when by apostolic indult a person obtained the permission to be baptized with the ceremonies of a certain Rite without the obligation to adhere to that Rite.

The clergy should not presume to induce either Catholics of the Latin Rite to join an Oriental Rite, or Catholics of Oriental Rites to join the Latin Rite.

No one is allowed without permission from the Holy See to go over to another Rite, or after a legal transfer to return to the former Rite.

The wife who belongs to another Rite than her husband is at liberty at the time of marriage, or at any time during the marriage, to join the Rite of her husband. When marriage is dissolved, she is free to return to her own Rite, unless particular laws rule otherwise.

The custom, no matter of what duration it may be, to receive Holy Communion in another Rite does not entitle to, or mean, a change of Rite. (Canon 98.)

76. There are in the Catholic Church besides physical also so-called moral or legal persons, that is to say bodies of men, instituted by the public authority of the Church, which persons are distinguished into *collegiate* bodies and *non-collegiate,* for instance, churches, seminaries, benefices, etc. (Canon 99.)

77. The Catholic Church and the Apostolic See have the nature of a legal person by Divine ordinance. The other,

inferior, legal persons get their personality either by law, or by a special concession of the competent ecclesiastical superior through a formal decree for the purpose of religion or charity. Unless there are at least three individuals, there can be no collegiate moral person. Moral persons, both collegiate and non-collegiate, are held equal to minors. (Canon 100.)

78. The actions of collegiate legal bodies in the Church are subject to the following rules.

Unless either the common law or particular statutes prescribe a different course of action, it shall be the rule that the absolute majority of votes of all those who have a right to vote, and actually do vote, decides a question, and if in the two first votings no majority was obtained, the relative majority of votes in the third voting decides. If in the third voting the votes are even, the president of the election can, by giving his vote to one of the parties, decide the matter; if the president does not want to do this and there is question of elections, the senior in ordination, in first profession or in age, is to be considered elected.

Those matters that touch each one individually, must be approved by all.

If there is question of the actions of non-collegiate legal persons, the particular statutes and the norms of the common law regarding such persons are to be followed. (Canon 101.)

79. A legal person is of its very nature perpetual. It may be extinguished by suppression by the legitimate authority, or by having ceased to exist for a space of one hundred years. If at least one individual of a collegiate legal person remains, the rights of all rest with that individual. (Canon 102.)

80. An action that is done by either a physical or a moral person through extrinsic force which could not be resisted is considered as though it was not done. Actions done because of great fear from unjust threats, or an account of deceit, are valid unless the law rules otherwise in some cases; they can, however, be declared null and void by the ecclesiastical judge according to Canons 1684-1689, at the petition of the injured party, or even without such petition. (Canon 103.)

81. Error annuls an action when it concerns the substance of the action, or amounts to a *conditio sine qua non;* otherwise the action is valid, unless the law states the contrary. In contracts, however, error may give the person contracting under such error the right to an action in court for the rescinding of the contract. (Canon 104.)

82. Whenever the law states that the superior needs the consent, or the consultation, of some persons, the following rules obtain:

If consent is required, the superior acts invalidly against the vote of these persons; if only consultation is demanded, by words like *de consilio consultorum,* or *audito capitulo, parocho,* etc., it is sufficient for the validity of the action that the superior consults these persons. Though he is not bound to follow their advice, he should nevertheless have great regard for the unanimous vote where several persons had to be consulted, and he should not without a very good reason go against their counsel.

If the consent, or consultation, of several persons is required, these persons should be legally convoked and thus manifest their mind. The superior may, if he thinks the matter of sufficient importance, oblige them to take the oath of secrecy concerning this affair. All persons whose consent or counsel is required should with due respect, truthfulness and sincerity state their idea on the subject. (Canon 105.) This Canon does not say whether the action of a superior is invalid if in cases where consent or counsel of others is required, he should neglect to call some of these persons. Reference is made to Canon 162, § 4, which states that the convocation of individuals for election is not essential, provided they were present anyhow. The same Canon, in number 3, declares that elections are invalid if more than one-third of those having a vote were not called and did not take part in the election. We believe the same may be applied to the validity of an action where certain individuals must intervene.

83. In Canon 106 are to be found rules on precedence of various ecclesiastical persons.

84. By Divine institution the clergy is distinct from the laity in the Church, though not all degrees of clerics

are of Divine institution. Both clerics and laics may be Religious. (Canon 107.)

PART I.

LAWS CONCERNING THE CLERGY.

SECTION I.

The Clergy in General.

85. Those who have been assigned to the Divine ministry by the first tonsure, are called clerics. They are not all of the same degree, there is a sacred hierarchy by which one is subordinate to the other. This hierarchy which is of Divine institution by reason of the sacred orders, consists of bishops, priests and ministers; by reason of jurisdiction it consists of the supreme pontificate and the subordinate episcopate. By institution of the Church other degrees have been added. (Canon 108.)

86. Those who, in the Church, are received into the ecclesiastical hierarchy, are not accepted by consent or a call from the secular authority or the people, but are placed in the degrees of the power of orders by sacred ordination. In the supreme pontificate the person lawfully elected and freely accepting the election receives power of jurisdiction by Divine right; all others receive jurisdiction by the *canonica missio.*

87. Though the Holy See does give to some of the clergy the title of prelate as an honorary title without jurisdiction, the proper meaning of the term denotes those of the secular or regular clergy who have ordinary jurisdiction in the external forum. (Canon 110.)

TITLE I.

Manner of Ascribing the Clergy to a Diocese.

88. Every cleric must belong either to some diocese or to some religious community, vagrant clerics are not at all recognized. By reception of the first tonsure a cleric is ascribed to, or incardinated in the diocese for the service of which he was promoted. (Canon 111.)

89. With the exception of the cases mentioned in Canons 114 and 641, §2, it is necessary for valid incardination of a cleric into another diocese that his own bishop grant him letters of perpetual and unconditional excardination, and that the bishop receiving him likewise issues letters of perpetual and unconditional incardination. Letters of in- and excardination must be signed by the bishops. (Canon 112.)

90. The vicar general cannot grant incardination or excardination without a special mandate from the Ordinary, nor can the vicar capitular do this except after one year's vacancy of the bishopric, and then only with the consent of the cathedral Chapter. (Canon 113.)

91. If the Ordinary gives to a cleric of another diocese a benefice requiring residence, e. g. a parish, with the written consent of his Ordinary, or with the written permission allowing the cleric to leave his diocese for good, this is considered an ex- and incardination. (Canon 114.)

92. By religious profession a cleric is excardinated from his diocese, according to the rules of Canon 585. (Canon 115.)

93. Excardination cannot take place without good reasons, and it does not take effect, unless incardination in the other diocese has followed, the Ordinary of which diocese is held to inform the other bishop as soon as possible. (Canon 116.)

94. A bishop should not incardinate a cleric of another diocese, unless (1) the cleric is necessary or useful to the diocese and the rules of Canon Law have been observed; (2) the bishop has the authentic document of excardination and letters of the Curia about the conduct of the cleric; (3) the cleric has taken the oath before the incardinating Ordinary or his delegate to serve the new diocese for all times according to the sacred Canons. (Canon 117.)

TITLE II.

The Rights and Privileges of Clerics.

95. Clerics only can obtain either the power of orders or that of ecclesiastical jurisdiction, and ecclesiastical benefices and pensions. (Canon 118.)

96. All the faithful owe the clergy reverence according to their various rank and offices, and they become guilty of sacrilege if they do them personal injury. (Canon 119.)

97. All cases against clerics, both civil and criminal, must be brought into the ecclesiastical court, unless for some countries other provisions have been made.

Cardinals, Legates of the Holy See, bishops, even titular ones, abbots and prelates *nullius,* the supreme heads of religious bodies approved by Rome, the major officials of the Roman Curia in reference to business belonging to their office, cannot be sued in the secular courts without permission of the Holy See. All others, clerics and religious, who enjoy the privilege of the forum, cannot be sued in a civil court without permission of the Ordinary of the place where the case is to be tried. The Ordinary, however, should not refuse such permission, if the suitor be a lay person, especially after his attempts to effect an agreement have failed.

If clerics are sued in the civil court by one who has not obtained the permission, they may appear in court because they are forced to obey the summons if they want to protect themselves against more trouble, but they shall inform the Ordinary from whom permission should have been obtained. (Canon 120.)

98. All clerics are free from military service and from duties and public offices that are unbecoming to the clerical station. (Canon 121.)

99. Clerics who are forced to pay their debts should not be deprived of what is necessary for decent living, according to the prudent judgment of the ecclesiastical superior, but they are bound to pay all debts as soon as possible. (Canon 122.)

The cleric cannot renounce the afore-mentioned privileges; he loses them, however, if he is reduced to the condition of laics, or is punished with perpetual privation of the ecclesiastical garb, according to the rules laid down in Canons 213, § 1, and 2304. If the penalty is remitted, or if he is received again among the clergy, the privileges revive. (Canon 123.)

TITLE III.

Obligations of Clerics.

100. Both the interior life and the exterior behavior of the clergy must be superior to the laity and excel them by the example of virtue and good deeds. (Canon 124.)

101. The Ordinary must take care, (1) that the clergy frequently go to confession, (2) that they make each day a meditation of some duration, visit the Blessed Sacrament, say the rosary, and examine their conscience. (Canon 125.)

102. All secular priests must at least once in three years make a retreat for a length of time to be specified by the Ordinary, in a religious house or other place designated by the bishop. No one shall be exempted from the retreat, except in a particular case, for a just reason, and with the explicit permission of the Ordinary. (Canon 126.)

103. All clerics, but especially the priests, are under the special obligation to obey and respect their respective Ordinary. (Canon 127.)

104. The office imposed on clerics by the bishop must be accepted and faithfully attended to as long as the bishop judges that the needs of the Church in his diocese require the services of the priest. (Canon 128.)

105. The clerics after being ordained priests must not neglect studies, especially of the sacred sciences, in which they should always follow the sound doctrine handed down to us by the Fathers and universally received by the Church, and should avoid profane novelties of expression and what is wrongly called scientific. (Canon 129.)

106. All priests, even though they should have a parochial or canon's benefice, must for three years after their ordination yearly undergo an examination in the sacred sciences as outlined by the bishop. The bishop may for good reasons dispense from this duty. In the appointment to offices and benefices those ought to be preferred who, all other things being equal, were foremost in the examinations. (Canon 130.)

107. The diocesan conferences should be held repeatedly during the year in the episcopal city and in each deanery.

If it should be very difficult to have the meeting, the answers to the cases for conference should be put in writing and sent by mail according to the directions of the Ordinary.

All secular priests, and also all those religious who have the care of souls (as pastors or curates), and, if the cases of conscience are not held in the monastery, all religious priests who have the faculties of the diocese, must attend the diocesan conferences. (Canon 131.)

108. Clerics in major orders are, under pain of nullity, forbidden to marry and they have the obligation of observing chastity, so that sins against this virtue are also a sacrilege. If a cleric received major orders through grave fear or force, and did not ratify his ordination by accepting willingly the duties of the clerical state of major order men, he may bring his case before the bishop and if he can prove his case, he must be pronounced free from the obligations of the major orders.

Clerics in minor orders may indeed get married but, unless the marriage was invalid on account of their being forced to such a marriage by grave fear or violence, they cease to be clerics *ipso facto*.

A married man who in good faith receives major orders without a dispensation from the Holy See is forbidden to exercise such orders. (Canon 132.)

109. The clergy shall take care not to have in their houses, nor to visit, women that may give reason for suspicion. They are allowed to have in their houses only such women concerning whom there can be no suspicion either on account of the natural bond, as mother, sister, aunt, or about whom on account of their character and more advanced age all suspicion is removed. It is left to the judgment of the bishop whether in any case a woman is to be removed from the priest's house, or the priest to be forbidden to visit a woman. If the priest has been admonished repeatedly and yet continues to be obstinate, he is presumed guilty of concubinage. (Canon 133.)

110. The custom of the secular clergy to lead a community life is praiseworthy and is to be encouraged, and where it is in vogue it should be continued as far as possible. (Canon 134.)

111. Clerics in major orders are under obligation to daily recite all the canonical hours according to their proper and approved liturgical books. Those clerics that have been reduced to the state of laics, as described in Canon 213 and 214, are not obliged to recite the office. (Canon 135.) Cf. No. **144** and **145.**

112. All clerics are bound to wear a becoming clerical garb in accordance with the legitimate customs of places and with the orders of the Ordinary. They shall also have the clerical tonsure, unless the custom of nations is against it, and the dressing of their hair shall be free from vanity. Clerics are not allowed to wear a ring, unless it is conceded to them either by law or by Apostolic privilege.

Clerics in minor orders who of their own authority and without a legitimate cause do not wear the ecclesiastical garb and the tonsure, and have been admonished by the Ordinary and do not obey within a month, are by the very fact deprived of the clerical state. (Canon 136.)

113. Clerics are forbidden to give bail for any one, even with their own money, unless they have the permission of the local Ordinary. (Canon 137.)

114. Clerics must abstain from all things that are unbecoming their state: they must not exercise unbecoming arts; not play games of chance with money; not carry weapons, unless there is justified cause for fear; not indulge in hunting and never in that kind of hunting that is done with much display and publicity; not visit saloons and places of the same nature except in cases of necessity or for any other just cause approved by the Ordinary. (Canon 138.)

115. Even those affairs that are not unbecoming to the clerical state, but are foreign to it, the clergy must avoid.

Without Apostolic indult they shall not practice medicine or surgery; not act as notary public, except in the ecclesiastical Curia; not accept public offices that import secular jurisdiction or duties of administration.

Without permission from the Ordinary the clerics shall not act as agents for goods and property of lay people, or assume secular offices that impose the obligation of rendering an account; not exercise the office of procurator or

lawyer, except in the ecclesiastical court, or in the civil court when there is question of his own case or of his church; clerics shall not have any part at all, not even that of witnesses unless they are forced to act as such, in criminal cases in lay courts where the criminal is to be punished with a grave personal penalty.

Without permission from the Holy See the clerics are not allowed to run for or accept the offices of senator and deputies in those countries where there is a prohibition of the Pope; in other countries they shall not attempt this without the permission of their Ordinary as well as of the Ordinary of the place where the election is to take place. (Canon 139.)

116. The clergy must keep away from such performances, dances and shows which are unbecoming to the clergy and where it would be scandalous to see them attend these, especially in public theatres. (Canon 140.)

117. Clerics shall not volunteer for military service, unless they do so with the permission of the bishop in countries where they are forced to serve, in order the sooner to put in their period of service. Clerics must not take part, or help in any way, in internal revolts and disturbances of public order. Clerics who in violation of this law volunteer for military service thereby forfeit their clerical standing. (Canon 141.)

118. Clerics are forbidden either by themselves or through others to engage in any business or gainful occupation, whether for their own benefit or for that of others. (Canon 142.)

119. Clerics, even though they have no benefice or office requiring residence, are forbidden to be absent from their diocese for a notable length of time without at least the presumed permission of their bishop. (Canon 143.) For absence of pastors cf. Canon 465.

120. Clerics who go into another diocese with the permission of their bishop, but are not excardinated, can be recalled for a just reason but the laws of equity must be kept in mind. The bishop of the other diocese likewise can for a just reason deny a priest permission to prolong his stay in that diocese, unless he has given the extern priest a parish. (Canon 144.)

TITLE IV.

Ecclesiastical Offices.

121. An ecclesiastical office, in the wide sense of the word, is any employment that has a spiritual purpose. In the strict sense an ecclesiastical office means a stable position which is created either by God Himself or by the Church, conferred according to the rules of Canon Law, and carrying with it some participation of ecclesiastical power either of Holy Orders or of jurisdiction.

In law the word office is accepted in the strict sense unless the context clearly shows the contrary. (Canon 145.)

Canons 147-195 treat of appointment to offices, election, postulation, loss of office. We will here quote the Canons that might find application to the condition of the Church in the United States, and in countries where the same conditions prevail.

122. An ecclesiastical office cannot be obtained without a canonical appointment. By ecclesiastical or canonical appointment is understood the conferring of an ecclesiastical office by the competent ecclesiastical authority, according to the sacred Canons. (Canon 147.)

123. Offices that have the care of souls attached to them either in the external or internal forum, cannot validly be given to clerics who are not yet ordained priests. (Canon 154.) This regulation is new, for according to the former law a cleric could be appointed pastor of a parish before he was ordained priest.

124. Appointment to offices that have become vacant should never be deferred over six months from the time when the vacancy became known, if special laws do not otherwise specify the term. In the appointment of pastors the concession of Canon 458 is to be considered. (Canon 155.)

125. An office that has become vacant either through renunciation or by the sentence of the ecclesiastical Court cannot validly be conferred by the bishop, who accepted the resignation or gave the sentence, on his (the bishop's) relations, either of kin or by marriage, in the first and second degree, nor on a cleric in his service. Relations, either of

kin or by marriage, to the second degree and clerics in the service of the one resigning the office are at the same time barred from taking said office. (Canon 157.)

126. Appointment to any office should be made in writing. (Canon 159.)

TITLE V.

Ordinary and Delegated Jurisdiction.

127. In the Catholic Church there is, by Divine institution, the power of jurisdiction or government. This is twofold, that of the external forum and that of conscience or the internal forum, which latter is subdivided into sacramental and extra-sacramental jurisdiction. (Canon 196.)

128. By *ordinary* jurisdiction is meant the one that goes by right with the appointment to an office. *Delegated* jurisdiction is such that may be committed to a cleric by his superior. (Canon 197.)

129. In law the term *Ordinary,* besides having reference to the Roman Pontiff, refers to the bishop, abbot or prelate *nullius* and their vicars general, administrator, vicar and prefect apostolic, in their respective territories, and, in case of vacancy in these offices, to those who by law or legitimate custom succeed them in office. In exempt clerical Religious Orders the major superiors come also under the name of *Ordinaries.* By the term *ordinarius loci* or *locorum* are meant all person enumerated in this Canon except religious superiors. (Canon 198.)

130. He who has ordinary jurisdiction can delegate it to another, either totally or in part, unless the law expressly restricts the power of delegation.

Jurisdiction delegated by the Holy See can be subdelegated, either for one act or also habitually, unless the person was delegated for reason of personal aptitude (*industria personae*), or subdelegation was forbidden.

Jurisdiction delegated for a universality of cases by an Ordinary inferior to the Roman Pontiff can be subdelegated in individual cases.

In all other delegations the delegated jurisdiction cannot be subdelegated except the power to subdelegate has

been expressly granted. Acts that do not import jurisdiction can be subdelegated by delegated judges even though subdelegation was not expressly conceded.

No subdelegated jurisdiction can be further subdelegated, unless this power has been explicitly granted. (Canon 199.)

131. The ordinary power of jurisdiction and the jurisdiction delegated for the universality of cases is to be interpreted liberally; all other jurisdiction strictly. To whom, however, jurisdiction has been delegated, to him it is understood all such power has been given as is necessary to make his jurisdiction effective. He who claims to possess delegated jurisdiction has the burden of proving his delegation. (Canon 200.)

132. The power of jurisdiction can be exercised directly over subjects only.

The judicial power, both ordinary and delegated, cannot be exercised for one's own comfort nor outside the proper territory. For exceptions Canons 401, 1; 881, 2; and 1637 are to be considered.

The non-judicial or so-called voluntary jurisdiction can be exercised even in one's own favor, and made use of even outside one's territory, and in favor of a subject who is outside the territory, unless the nature of the case or the positive rules of law forbid such use of jurisdiction. According to this rule a bishop can give various faculties to one of his priests even though the bishop is outside his diocese, and he can give them to his priests even though they be absent from the diocese. Faculties, unless restricted by law, or by the one conceding them, can be used also outside the diocese of the bishop who granted them. The faculties granted to their priests by bishops in virtue of the five or ten years' faculties they formerly received from the Holy See were, as a rule, granted to priests only as long as they worked in the diocese. Whether certain absolutions from censures and other faculties could be exercised by the priests also while they were for a time outside their own diocese depended on the wording of the faculties. Many of the papal faculties were granted even to the bishops with the restriction that they could not make use of them outside the limits of their

diocese. (Canon 201.) Cf. No. 900 on the revocation of these faculties.

133. An act of jurisdiction in the external forum, whether ordinary or delegated, holds also for the internal forum. The act of one having jurisdiction for the internal forum only does not hold in the external forum.

Jurisdiction given for the internal forum can be exercised also out of confession, unless the faculty is restricted to the sacramental forum.

If the wording of the faculty does not mention the forum, it is considered as given for both the internal and external forum, unless the nature of the faculty indicates the contrary. (Canon 202.)

134. The delegate who acts beyond his mandate, either as to the matters or the persons over which he received power, acts invalidly. The delegate, however, is not to be considered to have exceeded the limits of his delegation if only the manner in which he transacted the affair is contrary to the wishes of the one who delegated him, unless the way how to proceed was prescribed as a condition of the delegation. (Canon 203.)

135. If a person applies to a higher superior, passing the inferior, the so-called voluntary jurisdiction of the inferior, i. e. such as is exercised outside judicial proceedings, is not thereby suspended, whether he has ordinary or delegated power. He shall, however, not interfere when the matter has been brought to the higher superior except for grave and urgent reasons, in which case he shall immediately notify the superior. (Canon 204.)

136. If several individuals have received delegated power concerning the same affair and doubt arises whether the delegation was given *in solidum,* or *collegialiter,* it is to be considered given *in solidum* in matters that do not require judicial proceedings, as *collegialiter* in matters of judicial proceedings.

If several persons are delegated *in solidum,* he who first makes use of the power in the case excludes the others so that they no longer have power, unless the first is afterwards impeded, or does not wish to continue to act in the affair.

If several persons are delegated *collegialiter,* all must act together in the case in order that their action may be valid, unless in the faculty other provisions are made. (Canon 205.)

137. If several persons have been delegated for the same affair but at different times, the one first delegated in order of time must attend to the affair unless the later delegation explicitly revoked the former. (Canon 206.)

138. The delegated jurisdiction ceases in the following ways: when the mandate has been complied with; when the time has expired or the number of cases is exhausted; when the motive for which delegation was given has ceased; by recall of the delegation made known to the one delegated by the superior; by renunciation of the delegate and acceptance of the same by the superior; but delegated jurisdiction does not cease by the passing out of office of the one delegating, except in the case mentioned in Canon 61. Cf. No. **46.**

Jurisdiction granted for the internal forum is still validly exercised if through inadvertence the priest has not noticed that the time for his faculties has expired or that he had used up the number of cases for which he had faculties.

When several persons are delegated *collegialiter,* all lose their jurisdiction by the fact that one is absent, dies, refuses to act, etc., unless the contrary is stated in the document of delegation. (Canon 207.)

139. As stated in Canon 183, § 2, the ordinary jurisdiction does not cease on account of the death, etc., of the one conceding the office. When the office is lost, the ordinary jurisdiction attached to it is likewise lost. The ordinary jurisdiction is suspended in the case of legitimate appeal, unless the appeal is only *in devolutivo.* (Canon 208.) Exceptions to this Canon are found in Canons 2264 and 2284.

140. The Church supplies jurisdiction both for the external and the internal forum (1) in common error, (2) in a positive and probable doubt of fact as well as of law. (Canon 209.) The former teaching of authors concerning supplied jurisdiction, especially as to the *titulus coloratus,* etc., must be corrected to agree with this Canon.

141. The power of orders which has been attached to an office by the legitimate ecclesiastical superior or been

committed to a person by him, cannot be delegated to others, unless the law or the indult explicitly allows delegation. (Canon 210.)

TITLE VI.

Reduction of Clerics to the State of the Laity.

142. Though the sacred ordination once validly received cannot be invalidated, nevertheless a cleric in major orders may be reduced to the state of the laity by rescript of the Holy See, or by the decree or sentence of the ecclesiastical court according to Canon 214, and, finally, by the penalty of degradation.

A cleric in minor orders may be reduced to the state of the laity not only by the very fact of committing actions to which the law attaches loss of the clerical state, but also by his own free will under condition that he request the Ordinary to allow him to return to the lay state; or the Ordinary may of his own accord issue a declaration to that effect when he prudently judges that the cleric could not, with due respect for the clerical state, be promoted to sacred orders. (Canon 211.)

143. If a cleric in minor orders has for any reason returned to the state of the laity, he can again be admitted to the clergy with the permission of the Ordinary into whose diocese he was incardinated by the orders. The Ordinary, however, should not grant permission except after a diligent inquiry concerning the life and morals of the individual and after a trial the length of which is to be determined by the same bishop.

A cleric in major orders who has returned to the lay state cannot be admitted again to the clerical state except by permission of the Holy See. (Canon 212.)

144. All clerics who have been legally reduced, or have returned with permission, to the state of the laity thereby lose the offices, benefices, rights and privileges of clerics and are forbidden to wear the cassock and the tonsure. A cleric in major orders, however, is held to celibacy, saving the exception made in the following Canon. (Canon 213.)

145. The cleric who received a major order out of grave fear may by the sentence of the ecclesiastical judge be reduced to the state of the laity, provided he can prove that he was ordained in fear and has not ratified the ordination afterwards, at least tacitly, by the exercise of the order with the intention of subjecting himself to the obligations of the major orders. He is then free from the obligation of celibacy and from the duty of saying the breviary. The want of liberty and absence of ratification must be proved according to the rules of Canons 1993-1998. (Canon 214.)

SECTION II.

Clerics Individually.

146. The Supreme Authority alone can erect ecclesiastical provinces, dioceses, abbeys or prelatures *nullius,* vicariates apostolic, prefectures apostolic; or change their limits, divide, unite, suppress them.

In law the term of diocese refers also to abbeys or prelatures *nullius,* and the name of bishop also to the abbot or the prelate *nullius,* unless the nature of the case or the context of the law show the contrary. (Canon 215.)

147. The territory of each diocese shall be divided into distinct territorial sections and each section shall have its own church to which the Catholic population of the district shall be assigned. Such a church is presided over by a rector as the proper pastor for the necessary care of souls.

In like manner shall the vicariates and prefectures apostolic be divided where it can conveniently be done.

The parts or sections of a diocese are called parishes; those of vicariates and prefectures apostolic are called quasi-parishes, and the priests assigned to the quasi-parishes are called quasi-pastors.

Without special permission from the Holy See parishes may not be established that are not divided by territory but by the difference of language of the people in the same town or city. It is likewise forbidden to establish purely personal parishes, i. e., for certain classes of people, or parishes for certain families. As to already established parishes of the kind

mentioned in this Canon nothing shall be changed without consulting the Holy See.

This law of the new Code does away with the difference between pastors of European countries and those of countries like the United States; both are equally pastors, no matter whether they are irremovable or otherwise, whether they have a fixed income or get their salary from the voluntary offerings of the faithful. For many centuries past the immovability from office and the endowment of the church were considered essential to a pastorship in the strict sense of the word. In more recent decrees concerning pastors there has been a noticeable tendency not to insist so much on the irremovable feature of the office. The condition of the Church in many countries at the present time makes it impossible to have a benefice connected with the parish. The benefice, consisting of lands and houses belonging to the church, from the rent of which the pastor drew his living, was made impossible in countries where either the government has taken the property with which the Catholic people had endowed the churches in the course of centuries, or the Church is laboring under difficulties among a scattered Catholic population, so that endowments are impracticable or impossible. (Canon 216.)

148. The bishop shall divide his diocese into regions or districts consisting of several parishes, which districts are known under the names of *vicariatus foranei, decanatus* (our deaneries), *archipresbyteratus,* etc.

If this division should on account of peculiar circumstances be impossible or inopportune, the bishop must consult the Holy See, unless provision has already been made by Rome. (Canon 217.)

TITLE VII.

The Supreme Authority and Those who by Law Share in it.

CHAPTER I.

The Roman Pontiff.

149. The Roman Pontiff as the successor of the Primacy of St. Peter, has not only the prerogative of honor

but also the supreme and full power of jurisdiction over the universal Church, in matters of faith and morals as well as in those that pertain to the discipline and government of the Church that extends itself throughout the whole world.

This power is truly episcopal, ordinary and immediate, and extends over each and every pastor as well as over the faithful, and is independent from any human authority. (Canon 218.)

150. The Roman Pontiff after his legitimate election obtains at once, from the moment he accepts the election, by Divine right the full power of his supreme jurisdiction. (Canon 219.)

151. Affairs of greater importance, which are reserved exclusively to the Roman Pontiff either by their very nature or by law, are called *causae majores*. (Canon 220.)

152. If the Roman Pontiff should resign his office, it is not necessary for validity that the Cardinals or any others accept the renunciation. (Canon 221.)

CHAPTER II.

The General Council.

153. There can be no General Council unless it is convoked by the Roman Pontiff. It is the right of the Roman Pontiff to preside, either in person or through others, at the General Council, to determine the matters to be discussed and in what order, to transfer, suspend, dissolve the Council, and to confirm its decrees. (Canon 222.)

154. There are to be called to the General Council the following persons who shall have a decisive vote:

1. The Cardinals of the Holy Roman Church, even those who are not bishops.
2. The patriarchs, primates, archbishops, residential bishops, even those not yet consecrated.
3. The abbots and prelates *nullius*.
4. The abbot Primas, abbots who are superiors of Monastic Congregations, and the supreme heads of clerical exempt Orders of religious. The superiors general of other religious bodies are not to be called, unless the bull of convocation explicitly states that they are to be called.

If titular bishops are called to the General Council, they have a decisive vote, unless it is otherwise stated in the convocation. The theologians and experts of the sacred Canons who may be invited to the General Council have but a consultive vote. (Canon 223.)

155. If any one of those called to the Council, who according to the foregoing Canon have a right to be present, cannot come on account of some just impediment, he may send a procurator and prove the impediment. If the procurator is one of the Fathers of the Council, he shall not have a double vote; if he is not, he shall be allowed to be present only at the public sessions, but without a vote. When the Council is finished he is entitled to subscribe his name to the acts of the Council. (Canon 224.)

156. No one of those who must be present at the Council will be allowed to leave before the Council is lawfully finished, unless the president of the Council shall have investigated and approved of the reason for leaving and have granted permission to leave. (Canon 225.)

157. The Fathers of the Council may add other questions to those proposed by the Roman Pontiff, but they must previously have been approved by the president of the Council. (Canon 226.)

158. The decrees of the Council have no definite binding force, unless they shall have been confirmed by the Roman Pontiff and promulgated by his orders. (Canon 227.)

159. The General Council has supreme jurisdiction in the whole Church. From the judgment of the Roman Pontiff there is no appeal to the General Council. (Canon 228.)

160. If it happens that the Roman Pontiff dies during the celebration of the Council, the Council is by that very fact suspended until the new Pontiff shall have ordered its reassumption and continuation. (Canon 229.)

CHAPTER III.

The Cardinals of the Holy Roman Church.

Canons 230-241 treat of the creation, the rights and duties of Cardinals.

161. Canon 239 contains the privileges and faculties

which are granted to the Cardinals of the Church from the time when their promotion to the cardinalate is published in a consistory by the Roman Pontiff, and from that time they obtain the right to vote at the election of the Roman Pontiff. If the Roman Pontiff announces the creation of a Cardinal but reserves the name *in pectore,* as it is called, the one who has been thus promoted does not in the meantime enjoy any of the rights and privileges of Cardinals, but after his name has been made public by the Roman Pontiff, he participates in them from the time of publication, but he takes precedence from the time his elevation was announced as reserved *in pectore.* (Cf. Canon 233.)

The list of privileges, besides others scattered through the Canons, is as follows:

1. To hear confessions in the whole world, also of the religious of either sex, and to absolve their penitents from all reserved sins and censures, with the exception of those reserved to the Holy See *specialissimo modo* and the censures incurred by revealing secrets of the Congregation of the Holy Office.

2. To choose for themselves and their servants a priest as confessor who, if he should not have jurisdiction, obtains it by the very fact that the Cardinal appoints him as confessor, and who also has the faculty to absolve from all reserved sins and censures as stated in the preceding paragraph.

3. To preach the Word of God everywhere.

4. To celebrate, or to allow another to celebrate in his presence, one Holy Mass on Holy Thursday and three Holy Masses on Christmas night.

5. To bless everywhere, by the Sign of the Cross alone, rosaries and other crowns of prayer, crosses, medals, statues, all scapulars approved by the Holy See, and to impose them without the obligation of having the names inscribed and to attach all the indulgences to these sacred objects which the Holy See usually grants.

6. To erect the Stations of the Way of the Cross with one blessing in churches, oratories, even private ones, and in other pious places, with all the indulgences granted to those who make this devout exercise; to bless crucifixes with the indulgences of the Way of the Cross for the use of the

sick and those who are in any other way legitimately impeded from making the Stations in a place where they are erected.

7. To say Holy Mass on a portable altar, not only in their own residences but wherever they actually stay, and to allow that another Mass is said in their presence.

8. To celebrate on the ocean observing the proper precautions.

9. To say Holy Mass in any church or oratory in conformity with their own calendar.

10. To have each day the personal indult of the privileged altar.

11. To gain in their own oratories the indulgences for the gaining of which is prescribed a visit to some church or shrine of the town or city in which the Cardinal actually stays, and his servants participate in this indult.

12. To bless the people in any place with the episcopal benediction, but in the City of Rome only in churches, pious institutions and at gatherings of the faithful.

13. To wear the pectoral cross over the mozeta like the bishops and to use the mitre and crozier.

14. To celebrate Holy Mass in any private oratory without prejudice to the one who enjoys the indult.

15. To exercise pontifical functions with throne and canopy in all churches outside the City of Rome; if the Cardinal wishes to make use of the pontificals in a cathedral, he shall previously advise the Ordinary of the fact.

16. To receive everywhere the honors which are usually bestowed on the local Ordinaries.

17. To authenticate in the external forum the oral pronouncements of the Supreme Pontiff.

18. To have a private oratory which is exempt from the visitation of the Ordinary.

19. To freely dispose, also by last will, of the revenue of their benefice, saving the exception contained in Canon 1298. This Canon which refers to Cardinals who reside in the City of Rome, is quoted below.

20. To consecrate and bless everywhere churches, altars, sacred utensils, abbots, and exercise similar functions,

with the exception of the consecration of the holy oils, if the Cardinal is not ordained bishop, observing the prescribed regulations and the law of Canon 1157, which rules that notwithstanding any privilege, no one can bless or consecrate a sacred place without the consent of the Ordinary.

21. To have precedence over all prelates and patriarchs and even the papal legates themselves, unless the legate be a Cardinal residing in his own territory; a Cardinal Legate *a latere* outside the City of Rome precedes all other prelates.

22. To confer the first tonsure and minor orders, provided the candidates have the dismissorial letters of their own Ordinary.

23. To confer the Sacrament of Confirmation with the obligation of having the names of those confirmed entered in the record as required by law.

24. To grant an indulgence of two hundred days, to be gained *toties quoties,* in places or institutions for persons under his jurisdiction or protectorate; also in all other places, but to be gained by those present only and once only each time. (Canon 239.)

CHAPTER IV.

The Roman Curia.

162. The Roman Curia consists of the Sacred Congregations, Tribunals and Offices as described in the following Canons. (Canon 242.)

163. In each of the Congregations, tribunals and offices the laws and rules for transacting business shall be followed which are either in general or for each in particular given by the Roman Pontiff. All who belong to any of the Congregations, tribunals and offices of the Roman Curia are held to secrecy within the limits and according to the laws laid down for each. (Canon 243.)

164. Nothing of importance shall be transacted in these Congregations, tribunals and offices without the moderator of them having notified the Roman Pontiff of the affair.

All favors and all decrees need the approval of the Pope, except those affairs for which special faculties have been

given to the moderators of the offices, tribunals and Congregations; the sentences of the tribunals of the Roman Rota and of the Apostolic Signatura also do not need the Pope's approval. (Canon 244.)

165. If any controversy arises concerning the competency between the sacred Congregations, tribunals and offices of the Roman Curia, a committee of Cardinals which the Roman Pontiff shall designate will decide the question. (Canon 245.)

Article I. The Roman Congregations.

166. Each of the Congregations is presided over by a Cardinal Prefect, or if the Roman Pontiff is himself the Prefect of the Congregation, it shall be directed by a Cardinal Secretary. To the prefects are joined as many Cardinals as the Pontiff may think fit to assign, together with other necessary assistants. (Canon 246.)

167. The Congregation of the Holy Office, of which the Supreme Pontiff is the prefect, guards the doctrines on faith and morals.

It judges crimes which according to its own proper law are reserved to it, with the power to judge these criminal cases not only in the case of appeals from the court of the local Ordinaries, but also in the first instance, if the case has been directly brought before this Congregation.

It has *exclusive jurisdiction* in cases concerning the Pauline privilege in marriage, disparity of cult and mixed religion, and to this Congregation belongs the power to dispense from these impediments. It is left to the judgment of the Congregation to give the case over to another Congregation or to the tribunal of the Roman Rota.

All questions of forbidden books are subject to this Congregation.

The eucharistic fast for priests who say Holy Mass is exclusively subject to this Congregation. (Canon 247.)

168. The Consistorial Congregation has the Roman Pontiff as Prefect. The Cardinal Secretary of the Holy Office, the Prefect of the Congregation of Seminaries and Universities and the Secretary of State belong *ex officio* to this Congregation. Among the consultors of the Consistorial

Congregation are numbered the Assessor of the Holy Office, the Secretary of the Congregation for Extraordinary Affairs of the Church, and the Secretary of the Congregation of Seminaries and Universities.

This Congregation prepares the matters to be treated in the consistory, it appoints bishops, coadjutor and auxiliary bishops, erects and divides dioceses, in districts not subject to the Propaganda, and receives and examines the reports of the bishops on the state and condition of their respective dioceses. (Canon 248.)

169. **The Congregation of the Sacraments** has charge of the disciplinary regulations concerning the seven Sacraments, with the exception of what is reserved to the Holy Office in Canon 247 and to the Congregation of Rites. Dispensations from marriage impediments and dispensations in other Sacraments are under the jurisdiction of this Congregation, except what is given expressly to other Congregations. The question of the *matrimonium inconsummatum,* examination of reasons for granting the dispensation and whatever is connected with it belongs to this Congregation. Also questions concerning the validity of marriage, of sacred orders and of other Sacraments, can be brought before this Congregation which according to its own judgment may turn the cases over to the tribunal of the Roman Rota. (Canon 249.)

170. **The Congregation of the Council** has charge of the entire discipline of the secular clergy and the Christian people. The observance of the precepts of the Church, conduct of the pastors and of canons of cathedral and collegiate chapters, pious sodalities and unions, even those in charge of religious, pious legacies, institutions of charity, Mass stipends, benefices and offices, church property, diocesan taxes, taxes of the episcopal curias, are subject to this Congregation.

The celebration and approval of Provincial and National Councils and meetings of bishops outside of places subject to the Propaganda. (Canon 250.)

171. **The Congregation of the Religious** has exclusive jurisdiction over the Religious Orders and congregations, and over communities which, even if they have no vows, lead a

community life after the manner of the religious. The government, discipline, studies, goods and property, privileges, dispensations from the common law of the Church for the religious, with the exception of the eucharistic fast for the celebration of Holy Mass, are subject to this Congregation. In districts subject to the Propaganda certain of these rights are given to that Congregation as is stated in the following Canon. (Canon 251.)

172. **The Congregation of the Propagation of the Faith** has charge of the Catholic missions for the spread of the faith, and whatever is connected with and necessary for the management of the missons. Councils held in missionary countries are subject to the Propaganda. Its jurisdiction is limited to those districts where either the hierarchy is not yet established, or, if established, is still in its initial stage. Societies and seminaries founded exclusively for the training of missionaries are under the jurisdiction of the Propaganda.

The Propaganda is held to refer to the competent Congregations the cases concerning faith, marriage or general rules of the sacred liturgy and interpretation of liturgical laws.

As regards the religious, the Propaganda has jurisdiction over them in as far as they are missionaries, individually and collectively; in their character as religious they are under the jurisdiction of the Congregation of the Religious. (Canon 252.)

173. **The Congregation of Sacred Rites** has authority to watch over and regulate the sacred rites and ceremonies of the Latin Rite. Whatever belongs only remotely to the sacred rites, as, for instance, the rights of precedence, and rights of that kind, is not subject to the Congregation of Sacred Rites. The Congregation grants exemptions from the liturgical laws, insignia to be worn at the sacred functions, and other privileges of honor.

The causes of beatification and canonization, and all questions concerning sacred relics, are subject to the Congregation of Sacred Rites. (Canon 253.)

174. **The Ceremonial Congregation** regulates the ceremonies in the pontifical chapel and the papal court, and the

sacred functions which the Cardinals perform outside the papal chapel. This Congregation decides the questions of precedence among the Cardinals, as well as of the legates whom the various nations send to the Holy See. (Canon 254.)

175. **The Congregation for Extraordinary Affairs** of the Church has jurisdiction to constitute, divide dioceses and appoint bishops in those instances where the civil governments have to be dealt with. It also has to handle those cases that the Supreme Pontiff through the Secretary of State may turn over to this Congregation, especially matters that refer to the civil laws and to agreements of the Holy See with the various nations. (Canon 255.)

176. **The Congregation of Seminary and University Studies** has jurisdiction over the government, discipline, temporal administration and studies in seminaries, except those in charge of the Propaganda. The universities which are under the jurisdiction of the Church are in their government and in their studies subject to this Congregation, including those that are directed by some religious body. It approves new universities, gives authority to confer academical degrees and prescribes the requisites for conferring the degrees, and when there is question of a man distinguished for exceptional learning, it may itself confer on him degrees.

The Cardinal Secretary of the Consistorial Congregation, among other Cardinals, belongs to the Congregation of Seminaries and Universities and the Assessor of the Consistorial Congregation belongs to its consultors. (Canon 256.)

177. **The Congregation for the Oriental Church** has for its Prefect the Roman Pontiff. To this Congregation are reserved all affairs of any kind referring to persons, discipline and Rites of the Oriental Churches, even those of a mixed nature, that is to say, such as affect partly a Catholic of the Oriental and partly a Catholic of the Latin Rite, e. g. in marriages between Catholics of the Latin and the Oriental Rite, or an Oriental Priest celebrating Holy Mass in a church of the Latin Rite, and *vice versa.*

The Congregation for the Oriental Church has for the

Churches of the Oriental Rite all the powers of the other Congregations combined, saving the jurisdiction of the Holy Office, as stated in Canon 247. (Canon 257.)

Article II. Tribunals of the Roman Curia.

178. The Sacred Penitentiary is presided over by a Cardinal called the *Major Poenitentiarius.* The jurisdiction of this tribunal is limited to affairs concerning the internal forum, both sacramental and non-sacramental. It grants favors for the internal forum exclusively, as for instance, absolutions, dispensations, commutations, sanations, condonations. The Sacred Penitentiary does, moreover, discuss and decide questions of conscience.

The *use and concession of Indulgences* is also subject to the Sacred Penitentiary, saving the right of the Holy Office to decide dogmatic questions on Indulgences and indulgenced prayers and devotions. (Canon 258.)

179. The tribunals of The Roman Rota and The Signatura Apostolica decide cases that must be settled by canonical trial, within the limits and according to the rules laid down in Canons 1598-1605. (Canon 259.)

Article III. Offices of the Roman Curia.

180. The Apostolic Chancery, in charge of the Cardinal Chancellor of the Holy Roman Church, has the duty of drawing up and mailing the Apostolic Letters or Bulls for the appointment to benefices and offices made in consistory, for the erection of new provinces, dioceses, and chapters, and for other, more important, affairs of the Church.

Such letters and bulls must not be written except by orders of the Consistorial Congregation in those matters over which it has authority, or by order of the Supreme Pontiff in other affairs, and the instructions given in each individual case must be observed. (Canon 260.)

181. The Apostolic Dataria, in charge of the Cardinal Datarius of the Holy Roman Church, has the office of investigating the qualifications of candidates to be promoted to non-consistorial benefices reserved to the Holy See; to draw up and send out the Apostolic letters of appointment to these benefices; to exempt in conferring the benefices

from conditions required, when the conferring does not belong to the Ordinary; to take care of the pensions and obligations which the Supreme Pontiff may impose in the appointment to the aforesaid benefices. (Canon 261.)

182. The Camera Apostolica, in charge of the Cardinal Camerarius of the Holy Roman Church, has the care and administration of the temporal goods and rights of the Holy See, especially for the time of vacancy, in which case the laws of the Constitution of Pope Pius X., *Vacante Sede Apostolica,* of December 25, 1904, must be observed. (Canon 262.)

183. The Secretariate of State, in charge of the Cardinal Secretary of State, consists of three divisions:

1. The first division, presided over by the Secretary of the Congregation for Extraordinary Affairs, attends to those matters which must be subjected for examination to that Congregation according to Canon 255.

2. The second division, under the direction of the *Substitutus,* attends to daily business.

3. The third division is under the direction of the Chancellor of Apostolic Breves and attends to the drawing up and mailing of Breves. (Canon 263.)

184. The Secretariate of Breves to Princes and of Latin Letters has the office of writing in Latin the acts of the Supreme Pontiff which he may commit to it. (Canon 264.)

CHAPTER V.

Legates of the Roman Pontiff.

185. The Roman Pontiff has the right, independently of any civil power, to send legates to any part of the world, either with or without ecclesiastical jurisdiction. (Canon 265.)

186. The Papal Legate is called Legate *a latere* when the Supreme Pontiff sends out a Cardinal with this title to impersonate him like another "ego" and he has such faculties as the Pope may give him. (Canon 266.)

187. Legates who are sent with the title of Nuntius or Internuntius:

1. Maintain according to the accepted rules of the

Holy See the relations between the Holy See and the civil government of the country where they act as permanent legates;

2. In the territory assigned to them they must watch over the condition of the Church and make report to the Roman Pontiff;

3. Besides these two, ordinary, powers, they usually receive other faculties which are in the nature of delegated jurisdiction;

Those who are sent with the title Delegate Apostolic have but one ordinary office or power, viz. that of watching over the Church and informing the Holy See. They do not stand in any official relation to the government. Other powers are granted to them by the Holy See in the form of delegated faculties. (Canon 267.)

188. The office of the legates, with all the faculties committed to them, does not expire at the vacancy of the Holy See, unless the contrary should be stated in the papal letters. It ceases, however, when the object for which they were sent is accomplished, by revocation made known to the Legate, and by renunciation accepted by the Roman Pontiff. (Canon 268.)

189. The legates are not to impede the free exercise of jurisdiction of the local Ordinaries.

Though the legates may perhaps not be consecrated bishops, they precede all Ordinaries except Cardinals.

If they are bishops, they can without permission of the Ordinaries bless the people and perform the liturgical function in pontificals, using also throne and canopy in all churches, except the cathedral. (Canon 269.)

190. Bishops who on account of their see have the title of Apostolic Legates, do not thereby acquire any special right. (Canon 270.)

CHAPTER VI.

Patriarchs, Primates, Metropolitans.

Canons 271-280 speak of these dignitaries of the Church. The title of Patriarch and of Primate does not denote superior jurisdiction but merely the honor of precedence. The

Patriarchs precede Primates, the Primates precede the Metropolitans, the Metropolitans precede the bishops. In his own diocese, however, the bishop precedes all archbishops and bishops except Cardinals, Papal Legates and his own Metropolitan. (Canons 271 and 280.)

191. The Metropolitan, or Archbishop, has the following rights of jurisdiction over the dioceses of the ecclesiastical province whose archbishop he is:

1. The Metropolitan can put into office those who have been presented for a benefice, if the suffragan bishop without a just impediment neglects to do so within the time specified in law.

2. He can grant hundred days' indulgence, the same as in his own diocese.

3. Appoint the vicar capitular, according to conditions of Canon 432, §2.

4. Watch over the faithful observance of faith and discipline and report to the Roman Pontiff abuses in these matters.

5. To make the canonical visitation of the dioceses, if the suffragans neglect this duty, provided the Holy See has first judged of the case.

6. To exercise the pontificals in all churches, even those exempt, notifying the bishop beforehand if the archbishop wants to celebrate with pontificals in the cathedral. He may bless the people like the bishop in his own diocese and have the cross carried before him. Other acts importing jurisdiction the archbishop may not perform in the dioceses of the suffragan bishops.

7. The archbishop receives appeals from the judicial sentences of the suffragans, and acts as the judge of the second instance.

8. He acts as judge of the first instance in cases concerning the rights or the temporal goods of the bishop, according to Canon 1572, §2. (Canon 274.)

CHAPTER VII.

Plenary and Provincial Councils.

Canons 281-292 treat of Plenary and Provincial Councils. Here are a few of the more important Canons:

192. The Ordinaries of several ecclesiastical provinces may meet in Plenary Council but they must first ask the permission of the Holy See, which will appoint a legate to convoke and preside over the Council. (Canon 281.)

193. At the Plenary Council must be present the following persons who have a decisive vote: besides the Papal Legate, the archbishops, the residential bishops who may send the coadjutor or auxiliary bishop to take their place, the apostolic administrators of dioceses, abbots or prelates *nullius,* vicars apostolic, prefects apostolic, vicars capitular.

Also titular bishops, staying in the territory where the Council is held, must, if called by the Papal Legate according to his instructions, appear at the Council and they have a decisive vote, unless in the document of convocation other provisions are made.

Other persons, of either the secular or the regular clergy, if invited to the Council, have only a consultive vote. (Canon 282.)

194. In each ecclesiastical province a Provincial Council shall be held at least every twenty years. (Canon 283.)

195. The archbishop, or, if he should be legitimately impeded, or if the see should be vacant, the oldest (in promotion to the suffragan see) bishop shall appoint the place within the province where the Council is to be held, after he has consulted all those who have a right to assist with a decisive vote. The archiepiscopal church should not be neglected, if there is no just cause why the Council should not be held there. The archbishop, or the oldest suffragan bishop, convokes the Council. (Canon 284.)

196. To the Provincial Council are to be called the following who have a decisive vote: all suffragan bishops, the abbots and prelates *nullius* and suffragan bishops who are not subject to any archbishop, and who have to choose with the approval of the Holy See the province to which they wish to belong; finally all others mentioned in Canon 282, are to be called.

Titular bishops who are staying in the province can be called by the president with the consent of the majority of those who have a decisive vote, and if they are called, they

have a decisive vote unless the contrary is stated in the convocation.

The cathedral Chapters, or diocesan consultors of those bishops who take part in the Council, should be invited to the Council and if invited, they should send two of the Chapter or two consultors selected by common vote, who shall have only a consultive vote in the Council.

The major superiors of clerical exempt Orders and of monastic congregations who live within the province must be invited, and if invited must either appear or give reason to the Council why they are prevented to come. These, however, as also others that might be called to the Council, have only a consultive vote. (Canon 286.)

197. The acts of the Plenary and the Provincial Council must be subjected to the revision and approval of the Sacred Congregation of the Council before they are published. (Canon 291.)

198. A conference of the bishops of each ecclesiastical province is to held at least every five years, to be called by the archbishop, or in case of vacancy of the archiepiscopal see or other impediment on the part of the archbishop, by the oldest suffragan. At the meeting the place for the next meeting should be agreed upon. (Canon 292.)

CHAPTER VIII.

Vicars and Prefects Apostolic. (Canons 293-311.)

CHAPTER IX.

Administrators Apostolic.

199. The Holy See sometimes appoints for a canonically erected diocese an administrator apostolic, either while the bishop is still alive or when the see is vacant. (Canon 312.)

200. If the administrator apostolic is appointed for a diocese while the bishop is still in possession of the see, he takes canonical possession of the administration by showing his letters of nomination to the Chapter as well as to the bishop, if the latter is of sound mind.

If the see is vacant, or the bishop is not of sound mind,

or not residing in the diocese, the administrator apostolic takes possession in the same way as the bishop, according to Canon 334, §3. (Canon 313.)

201. The rights, duties and privileges of the administrator apostolic are either according to special instructions or to the following Canons. (Canon 314.)

202. The administrator apostolic who is permanently appointed has the same rights, honors and duties as the residential bishop.

If he is appointed temporarily, he has the same rights and duties as the vicar capitular. If the bishop is still in possession, he can nevertheless visit the diocese according to the rules of Canon Law, and he is not obliged to apply Holy Mass for the people which obligation rests with the bishop. (Canon 315.)

203. If the administrator apostolic is appointed to rule the diocese while the bishop retains his see, the jurisdiction of the bishop and of his vicar general is suspended. (Canon 316.)

204. If the administrator dies or is otherwise impeded from acting, the Holy See must be notified. (Canon 317.)

205. The jurisdiction of the administrator apostolic does not cease with the death of the Roman Pontiff or the bishop, but ceases when a bishop has legitimately taken possession of the vacant diocese according to Canon 334, §3. (Canon 318.)

CHAPTER X.

Inferior Prelates.

206. Prelates who rule over the clergy and people of a district that is separated from every other diocese are called either abbots or prelates *nullius,* i. e. of no diocese; abbots *nullius,* if their church is abbatial; prelates *nullius,* if their church is a secular prelacy.

The abbacy or prelacy *nullius* that does not consist of at least three parishes is ruled by special laws, and to such does not apply what the Canons state concerning abbacies and prelacies *nullius.* (Canon 319.)

207. Abbots and prelates *nullius* have the same ordinary jurisdiction as the bishop. Even though they be not

consecrated bishops they have the right to consecrate churches and immovable altars, give all blessings reserved to bishops, excepting only the pontifical blessing, consecrate chalices, patens, portable altars, with the holy oils blessed by a bishop, grant indulgences of fifty days, give Confirmation, first tonsure and minor orders. Confer Canons 782, 3 and 957, 2. (Canon 323.)

208. The abbots and prelates *nullius,* though they be not consecrated bishops, can make use in their territory of the insignia of a bishop with throne and canopy and celebrate there the sacred functions according to the *pontificale.* The pectoral cross, the ring with the gem, and the purple cap, they may wear also outside their territory. (Canon 325.)

209. The rights and privileges of the domestic prelates of the Roman Pontiff, both those who have the title of prelates and those who have not, are regulated by the laws and customs of the papal palace. (Canon 328.)

TITLE VIII.

Episcopal Jurisdiction and Participants of the Same.

CHAPTER I.

Bishops.

210. The bishops are the successors of the Apostles and are placed by Divine law over the individual churches, which they govern with ordinary authority under the authority of the Roman Pontiff. They are freely appointed by the Pope. If some college has received the right to elect the bishop, Canon 321 shall be observed, which requires the absolute majority of votes of all those who have the right to vote. (Canon 329.)

211. Before a person is elevated to the episcopate, proof must be furnished in the manner prescribed by the Holy See that the individual is worthy. (Canon 330.)

212. The requisites of a candidate for the episcopate are:

1. He must be born of legitimate wedlock. (Even those legitimatized by subsequent marriage are excluded.)

2. He must be at least thirty years of age.

3. He must have been ordained priest for at least five years.

4. He must be of good character, piety, zeal for souls, prudent and otherwise qualified to govern the diocese about which there is question.

5. He must be a doctor or licentiate in theology or Canon Law, in an institution of learning approved by the Holy See, or must at least be well versed in these sciences. If the candidate is a religious he must have received from the major superiors a similar degree, or at least have their testimony certifying to his learning.

Also those who are elected, presented or designated for a bishopric by persons who have the privilege from the Holy See to elect, or present or designate, must have the aforesaid qualifications.

The Holy See has the exclusive right to pass judgment on the qualification of any candidate for the episcopate. (Canon 331.)

213. Every candidate to the episcopate, even those elected, presented or designated by the civil government, needs the canonical provision or institution in order to be the lawful bishop of a vacant diocese. The only one to institute a bishop is the Roman Pontiff. (Canon 332.)

214. Unless prevented by legitimate impediment, the person promoted to the episcopate, even though he be a Cardinal, must within three months from the receipt of the Apostolic letters receive the consecration and go to his diocese within four months. (Canon 333.)

215. The residential bishops are the ordinary and immediate pastors in the dioceses committed to them.

They cannot exercise their jurisdiction, either by themselves or through others, unless they have first taken canonical possession of the diocese. If they were vicars capitular, officials, *economi* in the diocese before their designation to the bishopric they can continue to retain and exercise these offices.

They take canonical possession of the diocese as soon as they exhibit, in person or by a procurator, the Apostolic letters to the cathedral Chapter, the secretary of the Chapter

or the chancellor of the Curia being present to make official entry of the fact in the acts of the diocese. In countries where there are no cathedral Chapters the diocesan consultors take the place of the Chapter. (Canon 334.)

216. The bishop has the right and the duty to govern the diocese in spiritual affairs as well as in temporal, and has to this end legislative, judicial and coercive power which must be exercised according to the laws of the sacred Canons.

The laws of the bishop begin to bind immediately when promulgated unless he provides otherwise in the same laws. The manner of promulgation is determined by the bishop himself. (Canon 335.)

217. The bishop must urge the observance of the laws of the Church and he cannot dispense with the common law except in as far as Canon 81 allows. (Canon 336.)

218. The bishop can everywhere in his diocese exercise the pontifical functions, even in exempt places. Outside the diocese he cannot exercise pontifical functions except with at least the reasonably presumed consent of the Ordinary of the place, and, if there is question of an exempt church, the consent of the religious superior.

To exercise the *pontificals* means to perform those functions in which according to the laws of liturgy the use of the pontifical insignia of the crozier and the mitre is demanded.

When the bishop grants to another the permission to exercise the pontificals in his diocese, he may also allow the use of the throne and the canopy. (Canon 337.)

219. The bishop is obliged to reside personally in the diocese, although he has a coadjutor bishop.

The bishop may not be absent from his diocese more than two or at most three months, either continuous or interrupted, in a year. This is the time allowed for vacation; regarding the visit *ad limina,* absence to attend the Provincial or Plenary Council, or on account of a civil office legitimately connected with his church, such absence is not counted. In order, however, that the bishop may not be absent from his diocese for too long a period at one time, this Canon forbids to combine the months of vacation with,

and add them to, the time required for the visit *ad limina,* etc., and for a newly appointed bishop to add the vacation to the months allowed until he must take up his residence in the diocese.

The bishop should not be absent from the cathedral church in Advent, Lent, on Christmas, Easter, Pentecost, Corpus Christi, except for grave and urgent reasons. (Canon 338.)

220. The bishop must apply Holy Mass for the people of his diocese on all Sundays and holidays of obligation, also those suppressed.

On Christmas, or on Sundays on which a holiday of obligation falls, it is sufficient to apply one Holy Mass for the people.

If a holiday of obligation is transferred in such a way that on the day to which it is transferred not only the Mass and office but also the obligation of hearing Holy Mass and the duty to abstain from servile work is transferred, Holy Mass is to be applied for the people on the transferred day, otherwise on the day of the feast.

The bishop must on these days apply Holy Mass himself; if he is legitimately prevented from saying Holy Mass, he may have it applied by another. If he cannot do that, he must as soon as possible apply Holy Mass either himself or through another.

If a bishop has two dioceses that are united *aeque principaliter,* or in addition to his own diocese is administrator of another, he satisfies his obligation by applying one Holy Mass for all the people in his charge.

If the bishop should not have satisfied the obligation spoken of in this Canon, he shall as soon as possible supply the number of Masses omitted. (Canon 339.)

221. Every bishop is held to make report of the state of his diocese every five years according to the formulas issued by the Holy See.

The five years' term is fixed and runs from January 1, 1911. In the first year of the *quinquennium* report must be made by the bishops of Italy, the islands of Corsica, Sardinia, Sicily, Melita, and the other small islands off the coast; in the second year the bishops of Spain, Portugal, France,

Belgium, Holland, England, Scotland, Ireland with the adjacent isles; in the third year the other bishops of Europe with the adjacent isles; in the fourth year the bishops of all America and the adjacent isles; in the fifth year the bishops of Africa, Asia, Australia and the islands in these parts of the world.

If the year assigned for the report should fall entirely or in part within the first two years of the bishop's reign of the diocese, the bishop may for that term abstain from sending a report to the Holy See. (Canon 340.)

222. The bishops who are to make the report are to go to Rome that same year to venerate the tomb of the Holy Apostles SS. Peter and Paul, and to appear before the Roman Pontiff.

The bishops, however, who are outside of Europe have permission to make the visit *ad limina* every ten years. (Canon 341.)

223. The bishop must make the visit *ad limina* in person or through his coadjutor if he has any, or for just reasons, to be approved of by the Holy See, through a qualified priest who resides in the diocese of the bishop. (Canon 342.)

224. The bishop must visit the entire diocese at least once in five years either in person, or, if legitimately excused, through his vicar general, or another priest.

The bishop has the right to take two of the clergy, even those of the cathedral Chapter, or any other he may choose, as companions on his visitation. No contrary custom or privilege restricting this right of the bishop is recognized in law.

If the bishop neglects to hold the visitation the archbishop has the right to interfere, according to Canon 274, nn. 4, 5. (Canon 343.)

225. To the visitation of the bishop are subject the persons, goods and pious institutions, even though exempt, within the limits of his diocese, unless special exemption is proved to have been granted them by the Holy See.

The bishop can visit the exempt religious only in the cases stated in law. (Canon 344.)

226. The visitor should proceed in a paternal manner concerning the object and purpose of the visitation. From

the precepts and decrees given in the visitation there is allowed only an appeal *in devolutivo*. In other cases, i. e. matters outside the scope of the visitation, the bishop, even at the time of visitation, must proceed according to the rules of law. The appeal *in devolutivo* means that the orders must be obeyed in the meantime even though a complaint regarding their fairness or justice is sent to the higher authorities. (Canon 345.)

227. The visitation should not be unduly prolonged, no unnecessary expense should be put on the places visited, and no donation should be allowed to be given either to the bishop or to any of the men accompanying the bishop. All contrary customs are disapproved. Concerning the living and traveling expenses for the bishop and his companions the legitimate custom of the various dioceses should be adhered to. (Canon 346.)

228. In his own diocese the bishop precedes all archbishops and bishops except his own archbishop, Cardinals and Papal Legates; while outside his own diocese the rules of Canon 106 are to be observed. (Canon 347.)

229. Titular bishops cannot exercise any act of jurisdiction in the diocese of their title, neither do they take possession of that diocese.

Charity should urge them to apply sometimes Holy Mass for the titular diocese but there is no obligation to do so. (Canon 348.)

230. The following privileges are granted to bishops, both residential and titular, from the time they receive authentic notification of the canonical promotion:

1. Besides other privileges mentioned in the various titles of the Code, they enjoy the privileges in Canon 239, §1, nn. 7-12; viz. to celebrate with the portable altar not only in their own residence, but wherever they travel, and to permit another Mass to be celebrated at which they assist; to celebrate on the ocean, observing due precautions; to celebrate in all churches and oratories Holy Mass according to their own calendar; to have the benefit of the personal privileged altar; to gain in their own private chapel those indulgences for which the visit to a church or public place of worship is prescribed in the town or city where they ac-

tually stay, which privilege is shared by their servants; to bless the people after the manner of the bishops, but in the City of Rome in churches only and pious institutions and at gatherings of the faithful; n. 2 of the same Canon, viz. to elect a confessor for themselves and their servants who, if he should not have any jurisdiction, receives it by the very fact of being chosen, and has power to absolve from the reservations of the local Ordinary and from all papal reserved sins and censures with the exception of those *specialissimo modo* reserved and those that are incurred by the revelation of a secret of the Holy Office; n. 3 of Canon 239, viz. to preach the Word of God everywhere with at least the presumed consent of the local Ordinary; n. 4, viz. to celebrate, or to permit another to celebrate in their presence, one Holy Mass on Holy Thursday, and three Holy Masses at midnight on Christmas, provided they are not obliged to celebrate in their cathedral; nn. 5, 6, viz. to bless everywhere with the prescribed rites of the Church beads, rosaries and other crowns of prayer, crosses, medals, statues, scapulars approved by the Holy See with all the indulgences attached to these objects by the Holy See; to bless in churches, oratories, even in private ones, and other pious places the Stations of the Way of the Cross; to bless crucifixes with the indulgences of the Way of the Cross for those who through sickness or other legitimate cause cannot make the Stations in places where they are erected.

They have the right to wear the episcopal insignia according to the liturgical laws.

2. Residential bishops from the moment that they have taken possession of their diocese have the right, (1) to receive the income of the *mensa episcopalis;* (2) to grant fifty days' indulgence in places of their jurisdiction; (3) to erect in all churches of their diocese the throne with the canopy. (Canon 349.)

CHAPTER II.

Coadjutors and Auxiliary Bishops.

231. The Roman Pontiff only can give to a bishop a coadjutor.

The coadjutor as a rule is given to the *person* of a bishop with the right of succession, sometimes also to the *see*.

The coadjutor given the person of the bishop without the right of succession is called by the special name of *auxiliary*. (Canon 350.)

232. The rights of the coadjutor given to the person of a bishop are to be learned from the Apostolic letters of appointment.

Unless otherwise stated in these letters, the coadjutor given a bishop who is quite incapacitated, has all the rights and duties of the bishop; in other cases he can exercise only such duties as the bishop may commit to him.

What the coadjutor can do and is willing to do, the bishop should not habitually delegate to another.

The coadjutor has the duty to perform the pontifical and other functions which the bishop would have to perform himself as often as he is requested by his bishop and is able to attend to them. (Canon 351.)

233. The coadjutor who is given to the *see* can in the territory of the diocese exercise the functions of the episcopate, except the sacred ordination. In other affairs he can do only as much as has been committed to him either by the Holy See or by the bishop. (Canon 352.)

234. In order that the coadjutor may take canonical possession of his office it is necessary that he show his Apostolic letters of appointment to the bishop.

The coadjutor with the right of succession and the coadjutor given to the see must, moreover, show the letters of appointment also to the Chapter (in countries where there are no Chapters, to the diocesan consultors) according to Canon 334, §3.

If the bishop's condition should have gone to such a stage that he is not capable of eliciting a human act, coadjutors of any kind need not show the letters to him but only to the Chapter. (Canon 353.)

235. Every coadjutor is bound, like the bishop himself, to reside in the diocese from which, outside of the period of vacation, as provided by Canon 338, he is not allowed to be absent except for a short time and with the permission of his bishop. (Canon 354.)

236. The coadjutor with the right of succession becomes immediately at the vacancy of the bishopric the Ordinary of the diocese for which he was appointed, provided he took legitimate possession of his office according to Canon 353.

The office of the auxiliary expires with the office of the bishop, unless it is stated otherwise in the Apostolic letters of appointment.

If the coadjutor was given to the see, his office continues also when the see becomes vacant. (Canon 355.)

CHAPTER III.

The Diocesan Synod.

237. The Diocesan Synod, to be held every ten years at least, is to treat such questions only as touch the particular needs of the clergy and people of that diocese. (Canon 356.)

238. The Diocesan Synod is convoked and presided over by the bishop, not by the vicar general except by special mandate, nor by the vicar capitular. It is to be held in the cathedral, unless there is good reason to have it elsewhere. (Canon 357.)

239. To the Synod must be called, with the duty to answer the call: (1) the vicar general; (2) the canons of the cathedral or the consultors; (3) the rector of the diocesan seminary, at least of the major seminary; (4) the deans; (5) one deputee of each collegiate church to be chosen from among the members by the collegiate Chapter; (6) the pastors of the city where the Synod is being held; (7) one pastor at least from each deanery to be elected by all the priests of the district who have the care of souls (pastors and assistants), and the pastors must provide priests to take their places in their parishes during their absence; (8) the abbots who are actual superiors, and one of the superiors of each clerical order of those who live in the diocese, to be designated by the provincial. If the residence of the provincial is in the diocese he may go to the Synod himself instead of sending one of the superiors.

If the bishop wishes he may call to the Synod also

others, namely all the canons, pastors, religious superiors, even any of the secular priests of the diocese, provided enough priests are left to attend to the care of souls. Those invited have the right to vote just as the others, unless the bishop in the invitation states otherwise. (Canon 358.)

240. Those who must come to the Synod and are impeded by some legitimate impediment cannot send a procurator in their place, but they must notify the bishop why they cannot come. Those who neglect to come to the Synod may be compelled by the bishop with just penalties, except exempt religious who are not pastors. (Canon 359.)

241. The bishop may before the Synod appoint committees who are to prepare the subjects for discussion in the Synod. Before the sessions open a schedule of the subjects to be discussed is to be given to all who answered the call to the Synod. (Canon 360.)

242. The proposed questions are to be submitted by the bishop, or the one presiding in his place, to the free discussion of the members of the Synod in the preliminary sessions. (Canon 361.)

243. The bishop is the only legislator in the Synod, the others having only a consultive vote. He alone signs the laws passed in the Synod, which, if they are promulgated in the Synod, begin to go into force immediately, unless the bishop decrees otherwise. (Canon 362.)

CHAPTER IV.

The Diocesan Curia.

244. The Diocesan Curia consist of those persons who assist the bishop, or the one who in place of the bishop rules the diocese, in the government of the diocese. To the Curia belong the vicar general, the official (cf. Can. 1573 as to his office and appointment), the chancellor, the promotor of justice, the *defensor vinculi,* the synodal judges and examiners, the parochial consultors, the auditors, notaries, cursors and the apparitors. (Canon 363.)

245. The nomination of those who are to hold the aforesaid offices and appointments should be done in writing, as Canon 159 demands.

Those nominated must (1) take an oath before the bishop that they will faithfully attend to their office without respect of persons; (2) transact their respective duties under the authority of the bishop according to the rules of law; (3) keep the secret within the bounds and according to the requirements of law or the command of the bishop. (Canon 364.)

246. Concerning the official, the promotor of justice, the defender of the marriage bond, the synodal judges, the auditors, cursors and apparitors, the laws of Canons 1573-1593 shall be observed; the other officials are to be guided by the following Canons. (Canon 365.)

Article I. The Vicar General.

247. Whenever the proper government of the diocese demands it a vicar general is to be instituted by the bishop to assist him, with ordinary jurisdiction in the entire diocese.

The bishop does not need the consent of any one in the appointment of his vicar and he can remove him at will.

As a rule, there should be but one vicar general, unless either the diversities of Rites or the size of the diocese demand otherwise. If the vicar is absent or impeded to act, the bishop may appoint some one else to take his place. (Canon 366.)

248. The vicar general should be a priest of the secular clergy, at least thirty years of age, a doctor or licentiate in theology and Canon Law, or at least perfectly conversant with these subjects, and commendable for sound doctrine, probity of life, prudence and experience.

If the diocese has been committed to a Religious Order the vicar general may be an alumnus of the same Order.

The office of vicar general must not be given to the Canon Penitentiary, or to a blood relation of the bishop in the first or in the second degree mixed with the first, or, excepting the case of necessity, to a pastor and others having the care of souls. The bishop is not forbidden to take the vicar from his own diocese even though he would have to take one of those whom this Canon does not desire to be appointed to that office. (Canon 367.)

249. The vicar general has by virtue of his office in

the entire diocese jurisdiction in spiritual and temporal matters to the extent of the bishop's ordinary jurisdiction, excepting only those affairs which the bishop has reserved to himself, or which by law demand a special mandate of the bishop.

Unless the law state otherwise, the vicar general can execute the rescripts of the Holy See which are sent to the bishop or his predecessor in the diocese, and in general he has the faculties which are habitually given to the Ordinary by the Holy See, as Canon 66 states. Habitual faculties are called all those that do not refer to one individual case, for Canon 66 calls habitual faculties not only those given *in perpetuum,* but also those for a definite period of time or a certain number of cases. The same Canon also states that, unless there is an exception made, all these faculties of the bishop are considered given also to the vicar general. (Canon 368.)

250. The vicar general should refer to the bishop the principal acts of the Curia, inform him of what has been, or is to be done, to safeguard discipline among the clergy and people. He should take care not to use his powers contrary to the good pleasure of the bishop. Canon 44, §2 decrees that a favor asked of and refused by the vicar general cannot be asked of the bishop without mentioning the appeal to, and refusal of, the vicar general, otherwise the bishop's concession is null and void. A favor which was refused by the bishop cannot validly be granted by the vicar general, even though the refusal of the bishop is mentioned. (Canon 369.)

251. The vicar general has within the diocese precedence over any other priests, even the dignitaries of the cathedral Chapter. The only ones who precede him are those who have the order of the episcopate, e. g. a titular bishop. If the vicar general is a titular bishop he has all the privileges of honor of these bishops; if he is not a bishop, he has during the time of his office the privileges and insignia of titular protonotary apostolic. The Protonotaries apostolic are not *monsignori* or domestic prelates. The cassock of titular protonotaries is black, as is also the silken sash which hangs down on the left side; this girdle may end in two tassels. The Protonotary may wear the rochettum

and black mantle. At Holy Mass and other solemn functions he may use the extra candle on a small stand with a handle called the *"Palmatoria."* (Canon 370.)

252. The jurisdiction of the vicar general expires by resignation made according to the Canons 183-191, or by the revocation of the bishop made known to the vicar, or, finally, by the vacancy of the bishopric. If the bishop's jurisdiction is suspended, that of the vicar suffers the same fate. (Canon 371.)

Article II. The Chancellor, Other Notaries, the Episcopal Archives.

253. In every Curia the bishop should appoint a chancellor who must be a priest, and whose office is principally to keep the acts of the Curia in the archives, to arrange them in chronological order and make an index of the same. If needs be, he may have an assistant whose title shall be vice-chancellor. The chancellor is by his very office a notary. (Canon 372.)

254. The bishop may also appoint besides the chancellor other notaries whose signature is recognized by the church in her courts. The bishop may appoint a notary either in general for all acts or for specified acts or occasions only. He may also appoint lay men as notaries, if clerics are not available, but in criminal cases of the clergy the notary must be a priest. (Canon 373.)

255. The office of a notary is (1) to write the acts and transactions in judicial proceedings; (2) to faithfully consign to writing the proceedings, adding place, day, month and year, and his own signature; (3) to show to those who have a right to see them the acts and documents on file and to attest that copies agree with the original.

The notary cannot write acts outside the diocese where he is appointed as notary nor for affairs beyond his appointment. (Canon 374.)

256. The bishop should have a safe and convenient place for the archives of the diocese. A catalogue or index of all the documents with a summary of its contents should be carefully made. (Canon 375.)

257. Each year within the first two months the catalogue should be brought up to date, classifying the documents of the past year. The Ordinary should inquire about the documents missing from the archives, and he has authority to use any necessary means to have them returned. (Canon 376.)

258. The archives must be kept locked and no one else except the chancellor shall have a key to it. Without the permission of the bishop or the vicar general and the chancellor no one is allowed to enter the archives. (Canon 377.)

259. Without the bishop's or vicar general's permission no one is allowed to take any document out of the archives and they must be returned after three days. The Ordinary only may allow a longer period of time which, however, should not easily be granted. He who takes any document out of the archives must leave a signed receipt for it with the chancellor. (Canon 378.)

260. The bishop should also have a special place where are kept documents that should remain secret. Each year, as soon as possible, the documents of trials for bad behavior, the subjects of which have passed this life, or in whose case ten years have elapsed since their condemnation, should be taken out of the archives and burnt. A brief summary of the case and the text of the definite sentence should be preserved.

The secret archives should be so constructed that they can be opened only by the use of two different keys, one to be kept by the bishop or administrator apostolic, the other by the vicar general, or if there is no vicar, by the chancellor. Only the bishop may ask for the other key to open, without any witness, the secret archives. (Canon 379.)

261. The documents to be kept in the parochial or the episcopal Curia's archives and not of a secret character shall be free for inspection to any one interested; and persons have the right to ask that a legal copy be made and given to them if they are willing to bear the expense.

The chancellors of the Curias, the pastors, and others, who are custodians of archives, shall in the communication

of documents and in the writing out and giving them to others observe the rules given by the legitimate ecclesiastical authority and in doubtful cases the Ordinary of the place is to be consulted. (Canon 384.)

Article III. Synodal Examiners and Parochial Consultors.

262. In each diocese there must be synodal examiners and parochial consultors, who are all instituted in the synod, the bishop proposing, the synod approving them. There should be as many as the bishop judges necessary, not less, however, than four, and not more than twelve. (Canon 385.)

263. If any of the synodal examiners or the parochial consultors die, or otherwise go out of office, in the time between the synods, the bishop may appoint others, called pro-synodal, with the advice of the cathedral Chapter or the diocesan consultors. This rule should also be followed in appointing examiners and parochial consultors whenever no synod is held. (Canon 386.)

264. The examiners and parochial consultors, whether instituted in the synod or outside of it, go out of office after ten years, or also sooner, if the synod is held. They can, however, finish an affair of their office which they had begun to handle, and they may be reappointed, provided the rules of law are observed. Those who are appointed in place of examiners or parochial consultors who go out of office before their term is up, remain in office only as long as those would have remained in whose place they were chosen. (Canon 387.)

265. They cannot be removed from office by the bishop except for a grave reason and with the advice of the cathedral Chapter, or the diocesan consultors. (Canon 388.)

266. The synodal examiners should faithfully lend their services, especially in the examinations for the appointment of pastors and in the trials, as prescribed in Canon 2147 and following. (Canon 389.)

For the examination of the candidates for ordination, and of priests to be approved for confessions or for preach-

ing, and for the yearly examination of the junior clergy, the bishop is free to either call the examiners or others.

267. The same person can be both examiner and parochial consultor, not, however, in the same case. (Canon 390.)

CHAPTER V.

Chapters of Canons. (Canons 391-422.)

CHAPTER VI.

Diocesan Consultors.

268. In those dioceses in which it has not yet been possible to institute, or to revive former, cathedral Chapters of canons, the bishop shall appoint diocesan consultors, except where the Holy See has given special laws to some diocese. (Canon 423.)

269. The consultors are nominated by the bishop, observing Canon 426. (Canon 424.)

270. There shall be at least six diocesan consultors; in dioceses where there are few priests at least four consultors, and all consultors must live either in the episcopal city or in nearby places.

Before they undertake this office, they must take an oath that they will faithfully attend to their office without respect of persons. (Canon 425.)

271. The office of consultors lasts for three years.

When the three years are up the bishop shall either appoint others, or reappoint the same ones for another term of three years, which rule shall be followed every triennium. If any of the consultors go out of office before their three years' term is up, the bishop shall appoint others in their place, with the advice of the other consultors as to who shall fill out the term. If the consultor's term expires during the vacancy of the bishopric, the consultors remain in office until the new bishop takes possession, and he is to provide within the first six months according to this Canon. If during the vacancy any one of the consultors dies or resigns, the vicar capitular (or the administrator) shall, with the consent of the other consultors, nominate a substitute who needs, however,

the confirmation of the bishop to continue in office after the new bishop has taken possession. (Canon 426.)

272. The body of diocesan consultors takes the place of the cathedral Chapters as the council of the bishop. Whatever part the Canons give the cathedral Chapter in the government of the diocese either during the reign of the bishop or during a vacancy is to be also the part of the body of consultors. (Canon 427.)

273. During their term the consultors should not be removed except for a just cause and with the advice of the other consultors. (Canon 428.)

CHAPTER VII.

Obstruction in the Government, Vacancy of the Episcopal See, the Vicar Capitular.

274. If the bishop is in captivity, or banished, exiled, or otherwise inhabilitated, so that he cannot even by letter communicate with the people of his diocese, the government of the diocese shall rest with the vicar general or another priest delegated by the bishop, unless the Holy See has made other provision.

The bishop may in such circumstances for grave reasons delegate several persons who are to succeed each other.

If all of them fail, or are impeded in any of the ways described above, the cathedral Chapter shall appoint a vicar who shall assume the government with the powers of vicar capitular.

Those called upon to assume the government of the diocese in such circumstances, shall as soon as possible inform the Holy See of the state of affairs and of their having taken over the government.

If the bishop should have fallen into excommunication, interdict, or suspension, the archbishop, or in case of the archbishop being under censure, the oldest suffragan, shall at once have recourse to the Holy See that proper provision may be made. If there is question of bishops and prelates *nullius* who belong to no ecclesiastical province, but who have to choose an archbishop to whose jurisdiction they wish to belong for the purpose of Provincial Councils (cf. Canon

285), the archbishop thus chosen shall report to the Holy See. (Canon 429.)

275. The episcopal see becomes vacant by the death of the bishop, by renunciation accepted by the Roman Pontiff, by transfer, and by deprivation made known to the bishop.

Nevertheless, all acts of the vicar general are valid until he has received certain notice of the bishop's death; and, in the case of removal or transfer by the Holy See, all acts of the bishop or of his vicar general hold until official notice from the Roman Pontiff has reached them. Only appointments to benefices and offices are excepted from this rule.

In case of transfer of a bishop to another diocese, the bishop must within four months from the receipt of the notice take possession of the new diocese, according to Canons 333, 334; and the diocese he leaves becomes fully vacant from the day the bishop takes possession of the new diocese. In the meantime the following rules govern: (1) the vicar capitular has the right and duty of government, the power of the vicar general ceasing as soon as the notice from Rome arrives; (2) the vicar capitular has the privileges of honor of residential bishops; (3) he receives all the income of the *mensa episcopalis* according to Canon 194, §2. (Canon 430.)

276. In case of vacancy the government of the diocese belongs to the cathedral Chapter, unless there is an Apostolic administrator or the Holy See has otherwise provided.

If by special arrangement of the Holy See the archbishop, or another bishop, has the right to appoint an administrator for a vacant diocese, such administrator has all those, and only those, faculties and powers which the vicar capitular has and he is held to the same obligations and penalties. (Canon 431.)

277. The cathedral Chapter must within eight days from the notice of the vacancy of the episcopal see elect the vicar capitular for the government of the diocese. If the Chapter neglects to do so within that time, the archbishop has the right to appoint the vicar capitular and in case of the metropolitan see, the oldest suffragan bishop. The same rule governs in the vacancy of independent dioceses or prelacies *nullius* of which Canon 285 speaks. The cathedral Chapter shall as soon as possible notify the Holy See of

the vacancy and of the election of the vicar capitular. (Canon 432.)

278. Under pain of nullity the Chapter shall appoint only one vicar capitular by canonical election in which the absolute majority of votes suffices. (Canon 433.)

279. The vicar capitular must under pain of invalidity of the election be a priest, at least thirty years of age, and must not have been elected, nominated or presented to the Holy See for the bishopric by those having the right to elect, present, etc. If the election of the vicar capitular is invalid, the archbishop, or as the case may be, the oldest suffragan, has the right to appoint in that instance the vicar capitular. (Canon 434.)

280. The cathedral Chapter, and after his election the vicar capitular, have ordinary episcopal jurisdiction in all things spiritual and temporal, with the exception of those acts which are explicitly forbidden them in law. Wherefore they have all the rights enumerated in Canon 368, §2; they have power to allow any bishop to exercise the pontificals in the diocese and, if the vicar capitular is a bishop he can exercise them himself with the exception of the throne and the canopy. The vicar capitular and the Chapter are not allowed to do anything that might be prejudicial to the rights of the diocese or the future bishop, and they are specially forbidden to take away, destroy, conceal, or change, any of the documents of the episcopal curia. (Canon 435.)

281. During the vacancy no changes shall be made. (Canon 436.)

282. In the election of the vicar capitular the Chapter cannot retain for itself any part of jurisdiction, nor fix the time of duration of office of the vicar, nor attach any restrictions. (Canon 437.)

283. The vicar capitular having made the profession of faith demanded in Canons 1406-1408, obtains jurisdiction immediately and does not need any confirmation of his election. (Canon 438.)

284. The rules of Canon 370 concerning the vicar general also apply to the vicar capitular. (Canon 439.)

285. The vicar capitular is obliged to reside within the

diocese, and to apply Holy Mass for the people according to the rules of Canons 338, 339. (Canon 440.)

286. Unless other rules have lawfully been made, the vicar capitular and the *economus* have the right (1) to a proper salary to be specified in the Provincial Council, or by acknowledged custom, from the income of the *mensa episcopalis* or other sources; (2) the rest of the income of the diocese should be reserved to the future bishop for the needs of the diocese, if it would have come to the bishop had he been in office. (Canon 441.)

287. The *economus* of the diocese shall have the administration of the goods and revenue of the diocese, under the authority, however, of the vicar capitular. (Canon 442.)

288. The removal of the vicar capitular and of the *economus* is reserved to the Holy See. Their renunciation is to be handed in authentic form to the Chapter, but it is not necessary for its validity that the Chapter accept it. The appointment of a new vicar or an *economus* after the resignation, death, or removal by the Holy See belongs to the Chapter after the manner of Canon 432. Their authority, moreover, expires from the moment the new bishop takes possession. (Canon 443.)

289. The new bishop has authority to demand an account from the vicar capitular, and from all officials of their actions during the vacancy, and to punish delinquents, even though the Chapter should have exonerated them. They must also give an account of documents belonging to the Church that came to them during the vacancy. (Canon 444.)

CHAPTER VIII.

Deans.

290. A dean (*vicarius foraneus*) is a priest who presides over a deanery by appointment of the bishop. Cf. Canon 217. (Canon 445.)

291. The bishop should appoint to the office of dean worthy priests, especially from among the pastors. The dean may be removed at will by the bishop. (Canon 446.)

292. Besides the faculties which the diocesan statutes,

or otherwise the bishop, may give them, they have the right and duty: (1) to watch over the clergy of their district in order that they live according to the laws of the Church, keep residence, attend to preaching and instruction of the children and the adults and fulfil their duty towards the sick and infirm; (2) to see to it that they fulfil the decrees and orders of the bishop issued at the time of visitation; (3) to see to it that the rules concerning the keeping of the Blessed Sacrament are observed; (4) that the Churches and whatever is used for Divine worship are kept in proper condition, that the laws of liturgy are observed in the Divine services, that the Church property is properly and faithfully administrated and the obligations annexed to Church endowments, as for instance legacies of Masses, are attended to; that the Church records are properly kept.

In order to obtain knowledge of these matters the dean should at stated times, to be fixed by the bishop, visit the parishes.

It is the dean's duty to see to it as soon as he hears of the serious illness of any pastor of his district, that such a priest receives the necessary spiritual and temporal assistance, and, in case of death, a becoming burial. He has, moreover, the duty to watch that during the illness and after the death of a pastor the books, documents, sacred utensils and other objects belonging to the parish are not lost, or taken away. (Canon 447.)

293. The dean must on days appointed by the bishop summon the priests of his district for the conferences of which Canon 131 speaks, and preside at them. If they are held in several places of his district, he must watch that they are properly attended. If the dean is not a pastor, he must reside in the territory of the deanery or in a place nearby, according to the regulations to be made by the bishop. (Canon 448.)

294. At least once a year the dean should submit report to the bishop, not only of the good that has been accomplished but also of evils that have crept in, scandals that have arisen, and what has been done to repair them, and what he has to suggest for wiping out the evils. (Canon 449.)

295. The dean should have a seal proper to the deanery. He precedes all the pastors and other priests of his district. (Canon 450.)

CHAPTER IX.

Pastors.

296. The pastor is an individual priest, or a body of men, to whom a parish has been conferred to attend to the care of souls by and under the authority of the bishop. The following persons are in law held equal to pastors with all parochial rights and duties: (1) the quasi-pastors who are in charge of quasi-parishes, that is to say, in vicariates and prefectures apostolic where the territory has been divided into districts and an individual rector been appointed over the district. In countries like the United States and others withdrawn from the jurisdiction of the Propaganda, the rectors of parochial churches are called pastors in the strict sense of the term; (2) the parochial vicars, if they have full parochial power.

Concerning the major and minor military chaplains, the special regulations of the Holy See are to be observed. (Canon 451.)

297. Without Apostolic indult the bishop cannot unite a parish to a body of men, e. g. a monastery, college, in full right, namely in such a way that the body of men as a collective person becomes pastor of a parish. Cf. Canon 1432, § 2.

A body of men to whom a parish has been given by full right can retain only habitually the care of souls; the actual exercise of the pastoral rights and duties rests with the parochial vicar who is appointed according to the rules of Canon 471. (Canon 452.)

298. In order that a cleric may validly be appointed pastor he must be a priest. (Canon 453.)

299. Those who are appointed as rectors of a parish should remain in office permanently, which rule, however, does not forbid to change any pastor provided the rules of Canon Law are observed.

Not all pastors have the same stability in office; those who enjoy greater stability are called *irremovable,* those who

have a lesser degree of stability are usually called *movable* pastors.

Irremovable parishes cannot be made movable without the *beneplacitum* of the Holy See. The movable parishes can be made irremovable by the bishop, not however by the vicar general, with the advice of the cathedral Chapter or the diocesan consultors. New parishes to be established should be made irremovable, unless the bishop, having sought the counsel of the Chapter or the consultors, should prudently judge that peculiar circumstances of place and persons make movable pastorships more advisable.

All pastors of quasi-parishes are movable.

Pastors belonging to religious communities are always, as far as the individual person is concerned, movable, and they can be removed as pastors both by the will of the bishop, notifying the superior, and also at the will of the respective religious superior, notifying the bishop. Both have equal rights and the one does not need the consent of the other, nor has one to give reason to the other, much less proof. Both have the right of recourse *in devolutivo* to the Holy See in a disagreement. (Canon 454.)

300. The right to nominate and institute pastors belongs to the bishop, except for parishes reserved to the Holy See; all contrary customs injuring this right of the bishop are disapproved. Those, however, who have legitimately been given the right to elect or present the pastor do retain their right.

When the diocese is vacant or impeded, as described in Canon 429, the vicar capitular, or another who rules the diocese has the right: (1) to institute parochial vicars according to Canons 472-476; (2) to confirm the election or accept the presentation to a vacant parish and to grant the elected or presented priest the canonical institution as pastor; (3) to appoint pastors to parishes in general, if the see has been vacant for at least one year.

The vicar general has no power to confer parishes without a special mandate from the bishop, except in cases where the bishop is in captivity, exile, inhabilitated to act, etc., as described in Canon 429, §1. (Canon 455.)

301. For parishes entrusted to religious, the superior

whose office it is, according to the constitutions of the Order, has the right to present a priest of his Order to the Ordinary for the pastor's office. The Ordinary gives him the canonical institution, observing Canon 459, §2, which leaves to the bishop the judgment of the requisite qualifications. (Canon 456.)

302. Quasi-pastors are nominated from the secular clergy by the local Ordinary with the advice of his council. Quasi-parishes are those in vicariates and prefectures apostolic, where, according to Canon 302, the vicar or prefect apostolic is to appoint at least three of the older missionaries as his advisory board, whom he should consult in all more important cases. (Canon 457.)

303. The bishop should not delay the appointment of a pastor to a vacant parish for more than six months, unless peculiar circumstances of place and persons induce the Ordinary to delay the conferring of the pastorship. (Canon 458.)

304. The Ordinary is bound in conscience to give the vacant parish to the priest whom he judges best qualified, without favoritism.

In judging the candidates for the pastorship there must be considered not only learning but also all other qualities required for the proper administration of the parish.

Wherefore the Ordinary should, (1) not neglect to gather information from any source as to the character of the priest; (2) refer to the examinations he passed when belonging to the junior clergy (Cf. Canon 130, §2); (3) subject the candidate to an examination as to his theological knowledge before himself and the synodal examiners, unless there is question of a priest well-known for his theological learning, in which case he may with the consent of the examiners dispense him from the examination; (4) in countries where the conferring of parishes is done by a *concursus,* either in the form of the constitution of Pope Benedict XIV., *"Cum illud,"* Dec. 14, 1742, or by a general *concursus,* that form shall be retained until the Holy See shall have otherwise provided. (Canon 459.)

305. A pastor should have, according to Canon 156,

only one parish, unless there is question of two parishes which have been united *aeque principaliter.*

In one and the same parish there can be but one pastor who has the actual care of souls; all contrary customs are disapproved and privileges recalled. (Canon 460.)

306. The pastor assumes the care of souls from the moment of taking possession. The manner of taking possession may, according to Canon 1444, be regulated by particular law or by custom. Before taking possession, or in the act of taking possession he must make the profession of faith prescribed by Canon 1406, § 1, n. 7. (Canon 461.)

307. The functions reserved to the pastor, unless the law states otherwise, are the following:

1. To baptize solemnly.

2. To carry the Blessed Sacrament publicly to the sick within his parish.

3. To administer the Holy Viaticum, whether publicly or privately, and to give Extreme Unction. The bishops receive the last Sacraments from the canons of the Chapter according to their rank of dignity. Where there are no cathedral Chapters the consultors of the diocese take their place. In clerical religious communities the administration of the last rites to the religious, and to all that live in the religious house, belongs to the superior. In case of necessity any priest may administer the last rites, and sometimes also by presumed permission.

4. To announce sacred orders and the marriage banns. To assist at marriages and to give the nuptial blessing.

5. To perform the funeral services of his parishioners unless they themselves selected before their death another church for burial.

6. To bless the houses on Holy Saturday or any other day, according to local customs, with the blessing of the ritual.

7. To bless the baptismal font on Holy Saturday, to have public processions outside the church in his parish, to give blessings outside the church with great pomp and ceremony, unless there is question of the cathedral Chapter which may perform such public functions. (Canon 462.)

308. The pastor has the right to the revenue to which legitimate custom or legal taxation, according to Canon 1507, § 1, entitle him. If he exacts more than he is entitled to he is held to restitution.

If any of the parochial offices are attended to by another priest, the fees or offerings belong to the pastor, unless the contrary will of those making the offering is certain concerning the sum that is over and above the ordinary tax. He must not refuse to gratuitously serve those who are not able to pay for the services. (Canon 463.)

309. The pastor is bound by virtue of his office to exercise the care of souls for all who are not legitimately exempt from his jurisdiction.

The bishop may for just and grave reasons exempt from the authority of the pastor the religious houses and pious institutions within the limits of the parish, though they are not exempted by the common law. (Canon 464.)

310. The pastor is obliged to live in the parochial house, near his church. The Ordinary may permit him for a just reason to live elsewhere, provided the house is not so far away from the church that the attendance to the duties of his office thereby suffers.

He is allowed to have two months vacation in a year, either continuous or interrupted, unless the Ordinary restricts or prolongs that period.

The days spent in the retreat of the priests of the diocese do not count as part of the vacation.

Whether the pastor takes his vacation for two months in succession or with interruptions, the rule is that whenever he goes away for more than a week he must in addition to a good reason for going have the written permission of the bishop. While away from his parish the pastor must provide a substitute approved by the Ordinary. If the substitute is a religious priest, he must have both the approval of the bishop and of the religious superior.

If the pastor is obliged to leave his parish suddenly, on account of some very urgent reason, and must be away for over a week, he shall as soon as possible inform his bishop by letter of the facts and state what priest he left in charge of the parish.

Also in cases when the pastor is away from the parish for less than a week he must provide for the wants of the people, especially when the peculiar circumstances of the parish demand constant attention. (Canon 465.)

311. Pastors are strictly bound to apply Holy Mass for their congregation on all Sundays and Holidays of obligation, even on abolished Holidays. Quasi-pastors, that is to say, pastors in districts subject to the Propaganda, are advised out of charity to say Holy Mass for their congregation on Sundays and the greater feasts of the year. As the pastors in the United States, whether irremovable or movable pastors, are pastors in the strict meaning of the term by virtue of the Code, they will have to apply Holy Mass for their congregations. The feast days are the following: Christmas; New Year's; Epiphany; Easter Sunday, Monday and Tuesday; Ascension; Pentecost Sunday, Monday and Tuesday; Trinity; Corpus Christi; Invention of the Holy Cross; Immaculate Conception; Purification; Annunciation; Assumption and Nativity of the Blessed Virgin; Dedication of St. Michael; Nativity of St. John Baptist; SS. Peter and Paul; St. Andrew; St. James; St. John; St. Thomas; SS. Philip and James; St. Bartholomew; St. Matthew; SS. Simon and Jude; St. Mathias; St. Stephen; Holy Innocents; St. Laurence; St. Silvester, Pope; St. Joseph and Ste. Anne; All Saints'. It is the common teaching of moralists that even if on these days the pastor says two Holy Masses he cannot accept a stipend for either Mass.

If the pastor should have several parishes which are united *aeque principaliter,* or should be administrator of an additional parish or parishes, he satisfies his obligation by saying one Holy Mass for the people.

The Ordinary can for a just reason allow the pastor to apply Holy Mass for the people on another day than that specified in law.

The pastor should say the Mass for the people in his parish church, unless circumstances demand otherwise.

If the pastor is legitimately absent, he may either himself say the Mass for the people in the place where he stays, or have it said by the priest who takes his place in the parish. (Canon 466.)

312. The pastor must celebrate the Divine offices, ad-

minister the Sacraments to the faithful as often as they legitimately request it, get acquainted with the people, admonish the erring, assist the poor and the sick, and give his special care to the instruction of the children in the Catholic faith.

The faithful should be admonished that they, if possible, frequently go to their parish church to assist at the Divine services and to hear the Word of God. (Canon 467.)

313. The pastor shall take special care of the sick, especially when they are dying, give them the Sacraments frequently, and commend their souls to God.

The pastor, and any other priest assisting the sick, has the faculty to give the Apostolic blessing with a plenary indulgence for the moment of death, to be applied according to the formula of the ritual. (Canon 468.)

314. The pastor must watch that nothing shall be done against faith or morals in his parish, especially in the schools whether private or public, and he must advance the works of charity, faith and piety in the parish. (Canon 469.)

315. The pastor must keep the parochial records of Baptism, Confirmation, marriage, and the deceased. He shall take care to have the census book as correct as possible, and he shall keep these books with great care and according to the approved custom or the regulations of the bishop.

In the baptismal record should be inserted a notice about the Confirmation, and the marriage, or subdeaconship, or solemn profession. When issuing baptismal certificates these facts should always be mentioned in the certificate.

At the end of each year the pastor should send an authentic copy of the records to the episcopal Curia with the exception of the census book.

The pastor should have a parochial seal and a safe place for the above-mentioned parochial books, where he should also keep the bishop's letters and other documents that may be useful or necessary to keep. (Canon 470.)

CHAPTER X.

Parochial Vicars.

316. If a parish is united to a religious house, to a cathedral or collegiate Chapter, or any other body of men

by full right, a vicar must be appointed for the actual care of souls who shall receive a suitable salary from the income of the parish according to the judgment of the bishop.

The religious superior, or the Chapter, or other legal body to which the parish is attached, shall nominate the vicar and present him to the bishop who must appoint him if he finds him qualified, according to the rules of Canon 459. Only in case of legitimate privilege or custom, or endowment of the vicariate by the bishop in which he reserved to himself the right of freely nominating the pastor, can the bishop himself nominate the parochial vicar.

If the parochial vicar is a religious he is movable like the religious pastor, as stated in Canon 454, § 5. All other parochial vicars are perpetual as far as the college or Chapter that presents him is concerned, but the bishop has the right to remove him in the same way as pastors, notifying the one who presented the vicar.

To the vicar exclusively belongs the care of souls with all the rights and duties of law and the statutes of the diocese and laudable customs. (Canon 471.)

317. During the vacancy of the parochial office the bishop shall as soon as possible appoint, with the consent of the religious superior if there is question of religious, a *vicar economus* who shall rule the parish during the vacancy and receive a proper portion of the revenue.

Before the *vicar economus* is appointed the assistant of the former pastor shall assume the government of the parish; if there are several assistants, the first; if they are all equal, the senior in office of the assistants. If there are no assistants, the nearest pastor takes charge; in case of religious, the superior of the house. The bishop in the diocesan synod, or outside of the synod shall determine beforehand which parish is to be considered nearest.

He who takes charge of the parish after the manner of the preceding paragraph, shall notify the bishop of the vacancy. (Canon 472.)

318. The *vicar economus* has the same rights and duties as the pastor in all things concerning the care of souls. He must, however, do nothing that might be prejudicial to the rights of the pastor and the parochial benefice.

The *vicar economus* shall in presence of the dean or another priest appointed by the bishop hand to the newly appointed pastor the key of the parochial archives and all other things belonging to the parish, and give an account of the receipts and expenditures, for the time of his administration. (Canon 473.)

319. The vicar who takes charge of the parish in the absence of the pastor, e. g., during vacation, has all the rights of a pastor as far as the care of souls is concerned. (Canon 474.)

320. If the pastor, on account of old age, mental debility or other perpetual inability, is not able to administrate the parish, the bishop must give him an assistant as vicar of the parish. If it is a parish in charge of the religious the superior presents the vicar.

The assistant who takes the place of the pastor in all the affairs of the parish has all the rights and duties of a pastor, with the exception of the application of the Mass for the congregation which rests with the pastor; if, however, he has only part of the pastoral duties to attend to, his rights and obligations must be learned from his letters of appointment.

If the pastor is of sound mind, the assistant must help him in the pastoral work under his authority and according to the bishop's instructions.

If the parish cannot be properly taken care of by an assistant acting as parochial vicar, the bishop has the right to remove the pastor according to Canons 2147-2161. (Canon 475.)

321. If the pastor alone cannot take care of all the work in the parish, on account of the great number of the people or for other reasons, the bishop may give him one or several assistants, called in law *vicarii cooperatores,* who shall receive a proper salary.

The assistants may be appointed either for the entire parish or for a certain specified part of it.

The bishop, not the pastor, has the right to nominate the assistants of the secular clergy, after having given hearing to the pastor.

The assistants of a religious pastor are presented to the

bishop by their competent religious superior, and it belongs to the bishop to approve them.

The assistants are obliged to reside in the parish according to the diocesan statutes, or the laudable customs, or the laws of the bishop. Where it is possible the bishop should arrange that they live in the rectory.

The rights and duties of the assistants are derived from the diocesan statutes, the letters of appointment, and the commission of the pastor. Unless the contrary has been expressly stated, they must assist the pastor in the general ministry of the parish, with the exception of the application of Holy Mass for the people.

The assistants are subject to the pastor who should paternally instruct and direct them in the care of souls, watch over them, and send each year a report to the bishop concerning their conduct.

If the parish is so large that even the appointment of assistants does not properly provide for the spiritual welfare of the people, the bishop has the right to divide the parish, according to Canon 1427. (Canon 476.)

322. Parochial vicars and assistants, of which Canons 472-476 treat, may be removed at will by the bishop or the vicar capitular, the vicar general can remove them only by special mandate of the bishop; Religious either by the bishop or the superior of the Order, according to Canon 454, § 5.

If a benefice is connected with the assistant's position, he can be removed by canonical trial, not only for reasons on account of which a pastor can be removed, but also for grievous disobedience to the pastor in the due exercise of his duties. (Canon 477.)

323. The pastor of the cathedral church precedes all other pastors in rank, the parochial vicar of the cathedral Chapter precedes all other parochial vicars. (Canon 478.)

CHAPTER XI.

Rectors of Churches.

324. By the name of "Rectors of churches" are meant here those priests who have charge of a church that is neither parochial nor capitular, nor annexed to a religious community, which holds services in that church.

Concerning the chaplains of religious women, of laical communities of men, of confraternities, and other legitimate associations, the laws of particular Canons shall be observed. (Canon 479.)

325. The rectors of churches are freely appointed by the Ordinary, except in places where certain individuals have the right to elect or present the candidate; the approval in that case belongs to the bishop.

Even if the church belongs to an exempt Order the rector nominated by the superior must be referred to the bishop for approval.

If the church is connected with a seminary or college conducted by the clergy, the superior of the seminary or college is at the same time rector of the church, unless the local Ordinary directs otherwise. (Canon 480.)

326. In the church committed to him the rector cannot hold parochial functions. (Canon 481.)

327. The rector of a church can celebrate the Divine services also solemnly, observing, however, the laws of foundation, i. e., such regulations as were made or approved of by the bishop when the church was built by individual benefactors, and provided that the holding of solemn services in the church does not injure the parish church. The bishop is the judge in these matters. (Canon 482.)

328. If the non-parochial church is so far away from the parish church that the parishioners who live near that chapel could not be expected to go to the parish church for Divine service, the bishop may command the rector, even under grave penalties, to have Divine services at hours convenient for the people, to announce the feasts and fast days, give catechetical instruction, and explanation of the holy Gospel. The pastor has the right to take Holy Communion to the sick from such church, if the bishop has allowed that the Blessed Sacrament be kept there. (Canon 483.)

329. Without the permission of the rector, or other legitimate superior, no priest is allowed to say Holy Mass, or administer the Sacraments, or hold any functions, in that church. (Canon 484.)

330. The rector must take proper care of the church. (Canon 485.)

331. Rectors of any kind are removable at will by the bishop. (Canon 486.)

PART II.

THE RELIGIOUS.

332. The Religious State, by which is meant a permanent community life, in which the faithful besides observing the common precepts, oblige themselves to the observance of the evangelical counsels by the vows of obedience, chastity and poverty, should be held in honor by all. (Canon 487.)

333. The meaning of the various terms used in the law for the religious is defined as follows: (Canon 488)

1. *Religio* means a society, approved by legitimate, ecclesiastical authority, whose members strive after evangelical perfection by living according to the special laws governing the society and by taking public vows, either perpetual or temporary, to be renewed, if temporary, when the time of the vows expires.

2. *Ordo* denotes a religious organization in which solemn vows are taken; *Congregatio monastica* is a combination of several independent monasteries of monks under one superior; *Religio exempta* means a religious organization, of either solemn or simple vows, that has been withdrawn from the jurisdiction of the Ordinary of the diocese; *Congregatio religiosa,* or simply *Congregatio,* signifies a religious body in which only simple vows are taken, which vows may be either perpetual or temporary.

3. *Religio juris pontificii* is a religious organization which has received from the Holy See either approval or at least the *decretum laudis; Religio juris diocesani* is a religious organization which has been instituted by the Ordinary and has not yet obtained the *decretum laudis* from the Holy See.

4. *Religio clericalis* means a religious organization whose members are mostly priests; otherwise it is called *religio laicalis.*

5. *Domus religiosa* signifies the residence of any religious organization; *Domus regularis* is the house of an Order; *domus formata* means a religious house in which reside

at least six professed members, of whom, if there is question of a clerical religious organization, four at least must be priests.

6. *Provincia* is a combination of several houses of religious under one superior, constituting a part of the Religious Order or congregation.

7. *Religiosi* are those who have taken vows in any religious community; *Religiosi votorum simplicium* are those who have taken vows in a religious *Congregation; Regulares* are the professed members of an *Order; Sorores* are religious women who have taken *simple vows; Moniales* are religious women with *solemn vows,* unless either by the very nature or the context of the Canons their meaning is to be taken otherwise. There are also nuns whose vows are by their rule solemn, but who have for certain countries been declared simple by order of the Holy See.

8. *Superiores majores* are the *Abbas primas,* abbots who are superiors of monastic congregations, abbots of independent monasteries though belonging to some monastic congregation, the Generals or highest heads of any religious organization, the provincial superiors and their vicars, and all others who have the same jurisdiction as Provincials.

334. The Rules and particular constitutions of individual religious organizations which are not contrary to the Canons of the Code remain in force. Those rules and statutes that are *opposed* to the Canons are hereby abolished. (Canon 489.)

335. The laws of the Canons for the religious when speaking in the masculine gender, *religiosus, religiosi,* apply in the same manner to religious women, except the context or the nature of the law prove the contrary. (Canon 490.)

336. The order of precedence is as follows: the religious precede lay people, clerical organizations precede laical, canons regular precede monks, monks precede other regulars, regulars precede religious congregations, congregations of papal law precede diocesan congregations. Among religious bodies of the same kind in the same town or city precedence is regulated according to the priority of residence in the place.

The secular clergy precedes both laical and clerical

religious bodies outside the churches of these bodies, and even in their churches if they are laical organizations. The cathedral or collegiate Chapter precedes the religious everywhere. (Canon 491.)

TITLE IX.

Erection and Suppression of a Religious Organization, of a Province, or a House.

337. Bishops, and not the vicar capitular or the vicar general, can establish religious congregations. They shall not establish them, nor allow their foundation, without first consulting the Holy See. If there is question of Tertiaries living in community, it is required, moreover, that the supreme head of the first Order aggregate them to his Order.

A diocesan religious congregation remains diocesan even though it has in the course of time spread to several dioceses, and it stays under the absolute jurisdiction of the bishops until it has obtained from the Holy See approval or, at least, the *decretum laudis.*

The name and religious habit of an established Order or congregation cannot be assumed by those not lawfully belonging to that body nor by a new organization. (Canon 492.)

338. Any religious body, even a diocesan congregation, which has been legally established cannot be dissolved, even though it should consist only of one house, except by authority of the Holy See, to which is also reserved the disposition of the goods of the congregation, saving the legitimate will and intention of the donors. (Canon 493.)

339. To the Holy See it belongs to divide congregations of papal law into provinces, to join provinces that have been established, or to change their circumscription, to establish new ones and suppress others, to separate independent monasteries from some one monastic congregation and unite them to another.

Concerning the goods of a province that has been abolished, the General Chapter, or, outside the Chapter, the Superior General with his council, has the right to dispose, unless the constitutions provide otherwise; the laws of jus-

tice and the will of founders must be safeguarded. (Canon 494.)

340. A diocesan congregation cannot establish a house in another diocese except with the consent of both the bishop of the diocese where its principal house is situated, and the bishop of the diocese to which it wishes to go. The bishop of the principal house should not deny permission without serious reasons.

If a diocesan congregation has already spread to other dioceses, changes in the laws of that congregation cannot be made except with the consent of each and every bishop of the dioceses in which it has a house. What the Holy See ordained at the time the bishop consulted the same about the founding of a congregation, as prescribed in Canon 492, § 1, cannot be changed by bishops. (Canon 495.)

341. No religious house shall be established unless it can be prudently judged that the community will be able to properly support itself, either by fixed income, or the usual alms, or by other means. (Canon 496.)

342. For the erection of a house of an exempt Order or congregation, whether it be a *domus formata* or *non formata* (cf. Canon 488, § 5), for a monastery of nuns with solemn vows, and for any religious house in countries subject to the Propaganda, the *beneplacitum* of the Holy See is required, together with the written consent of the local Ordinary. For all other cases the consent of the Ordinary suffices.

The permission to establish a house given to a clerical religious organization carries with it the right to have a church or public oratory, and to perform therein the sacred functions according to the rules of the law; and for all religious to exercise the pious works proper to each, observing the conditions under which the permission was granted. When religious intend to build a church the bishop's approval of the location must be sought, according to Canon 1162, § 4.

For the building and opening of schools, hospices, or other houses separate from the religious house, exempt or non-exempt, the written permission of the bishop is required, and not that of the Holy See.

In order to convert a religious house to other purposes, the same formalities are required as for a new foundation; it is not considered a change to other purposes, if there is question of changing it for purposes belonging to the internal regime and discipline, e. g., to use a house, or build a new house, of studies for the religious themselves. If, however, contrary agreements between the bishop and the provincial were made at the time of entering into the place, these must be adhered to. (Canon 497.)

343. A religious house, whether a *domus formata* or *non formata,* belonging to an exempt Order can be suppressed only by permission of the Holy See; if it belongs to a non-exempt congregation of papal law it can be suppressed by the General with the consent of the local Ordinary; if it is a house of a diocesan congregation, it can be suppressed by the sole authority of the bishop after having given hearing to the head of the congregation, and then the congregation has the right of appeal to the Holy See *in suspensivo,* that is to say, the community or house cannot be disturbed before Rome has decided. If the congregation has but one house, Canon 493 provides. (Canon 498.)

TITLE X.

The Government of Religious Organizations.

CHAPTER I.

Superiors and Chapters.

344. All religious are subject to the Roman Pontiff as their highest superior, whom they are bound to obey also in virtue of the vow of obedience.

The Cardinal Protector of the individual Orders has no jurisdiction over the Order or over the individual members, unless the contrary has been ordained for particular circumstances, nor can he interfere in the internal discipline and the administration of property, it being his office only to promote the good of the Order by his advice and patronage. (Canon 499.)

345. The religious are subject also to the local Ordinary, with the exception of those who have obtained from

the Holy See the privilege of exemption; but even these are in some things subject to him, as the Canons specify in various places.

Nuns with solemn vows, who by their constitutions are under the jurisdiction of the regular superiors, are subject to the local Ordinary in those cases only which are specified in law.

No Order of men can without a special papal indult have under its jurisdiction religious congregations of women, or claim a special right to care for and direct the members of such congregations. (Canon 500.)

346. The superiors and the Chapter have governing power over their subjects, according to the constitutions and the common law; in clerial, exempt, Religious Orders they have ecclesiastical jurisdiction for the internal as well as for the external forum.

All superiors are strictly forbidden to interfere in cases belonging to the Holy Office.

The Abbot Primas and the superior of a monastic congregation have not all the power and jurisdiction which the common law gives to major superiors; their power and jurisdiction must be gathered from the proper constitutions and the special laws of the Holy See. Canons 655 and 1594, § 4, are to be observed. Canon 655 refers to the dismissal of a solemn professed religious or one with perpetual simple vows, which case is to be judged by the Abbot Superior of a monastic congregation, and Canon 1594, § 4, states that the Abbot Superior of a monastic congregation is the judge of the second instance for cases tried by the Abbot. (Canon 501.)

347. The highest superior of a religious organization obtains power over all provinces, houses, and the individual religious, to be exercised according to the constitutions; other superiors have that power within the limits of their office. (Canon 502.)

348. The major superiors in clerical exempt Orders can constitute notaries for the ecclesiastical affairs of their Order only. (Canon 503.)

349. Unless the proper constitutions of individual religious bodies demand a more advanced age, and other more

difficult conditions, those are inhabilitated for the office of a major superior who are not at least ten years professed, the years to be counted from the first profession; not born of legitimate wedlock; and for the office of the highest superior of a religious body, or for abbess in monasteries of nuns with solemn vows, those under forty years of age; thirty years of age are the minimum required for other major superiors. (Canon 504.)

350. The major superiors are to be temporary, unless the constitutions demand otherwise; minor local superiors, however, must not be appointed to office for more than three years. After that term they may be appointed for a second term, not, however, for a third term in the same religious house. (Canon 505.) It may be noted that the Canon does not restrict the regulations for the terms of office to large houses only, but speaks of all, without distinction.

351. Before the election of major superiors in Orders of men takes place, each and every one of the Chapter must take an oath to vote for those only for whom before God he believes he should vote.

In monasteries of nuns with solemn vows, if they are subject to the bishop, he or his delegate, with two priests who act as tellers, presides at the election of the abbess, without entering the enclosure. If the nuns are subject to the superiors of a Religious Order, the regular superior presides, in which case the bishop must be notified in due time of the coming election and he may, together with the religious superior, be present or send a delegate. If the bishop comes in person, he presides.

The ordinary confessors of that monastery should not be appointed to act as tellers.

In religious congregations of women the local Ordinary presides in the election of the Superior General; if there is question of diocesan congregations, he may at will confirm or annul the election, as he in conscience sees fit. (Canon 506.)

352. In elections held by the Chapter, the common law, contained in Canons 160-182, is to be observed, together with the constitutions of the Order or congregation, in as far as they are not contrary to the Canons.

All religious should guard against procuring votes, directly or indirectly, for themselves or for others.

The election by *postulatio* can be admitted only in extraordinary cases, and only when not forbidden by the constitutions. (Canon 507.)

353. The superiors shall reside in their respective houses and not leave them, except according to the rules of the constitutions. (Canon 508.)

354. Every superior must promote among his subjects the knowledge and execution of the decrees of the Holy See for the religious.

The local superiors shall take care (1) that once a year, on the prescribed days, the constitutions of the Order or congregation are read publicly, as also the decrees which the Holy See ordered to be read before the whole community; (2) that at least twice a month an instruction on Christian doctrine is given to the lay brothers and servants, accommodated to the needs of their condition of life, and that, especially in laical organizations, pious exhortations are addressed to all the members. (Canon 509.)

355. Every five years, or more frequently if the constitutions so demand, a report must be sent to the Holy See by the Abbot Primas, by the superior of a monastic congregation, and by the supreme head of any religious organization of papal law, concerning the state of the organization, signed by the General and his council, and, in case of a congregation of religious women, also by the bishop of the place where the Superior General and her council reside. (Canon 510.)

356. The major superiors on whom the constitutions put the obligation of visiting at stated times all the houses subject to them, must attend to this duty personally if they can, or otherwise through delegates. (Canon 511.)

357. The local Ordinary must, either himself or through another, visit every five years:

1. Each monastery of nuns with solemn vows which is subject to him or immediately subject to the Holy See.

2. Each house of the diocesan congregations of both men and women.

He must within the same time also visit:

1. The monasteries of nuns with solemn vows subject

to the regulars, to inquire about the observance of the law of enclosure; and also concerning the rest of the religious life if the regular superior did not hold any visitation within the last five years.

2. Each house of clerical congregations of papal law, even those enjoying exemption, the visitation to extend only to the church, sacristy, public oratory, and places where confessions are heard.

3. Each house of laical congregations of papal law, the visitation to embrace not only those points mentioned in the preceding number, but also all other affairs concerning internal discipline. Canon 618 provides, however, that these congregations are not subject to visitation in regard to the economical affairs of the community.

The administration of goods and property shall be conducted according to Canons 532-535. (Canon 512.)

358. The visitor has the right and duty to ask any of the religious, whom he thinks according to his own judgment that he should ask, to obtain knowledge of those things that are within the scope of the visitation. All religious have the duty to answer truthfully, and superiors are not allowed to dissuade them from this obligation, or in any other way to frustrate the purpose of the visitation.

From the decrees of the visitor there is allowed an appeal *in devolutivo* only, which means that the orders have to be obeyed in the meantime; if the visitor proceeds by way of a canonical trial, there is open an appeal *in suspensivo,* which suspends the orders of the judge. (Canon 513.)

359. In all clerical religious communities the superior has the right and the duty, either in person or by another, to administer the Viaticum and Extreme Unction to the professed, the novices, and to others who live day and night in the religious house, either as servants or for the purpose of education, or as guests or convalescents.

In the house of nuns with solemn vows the ordinary confessor, or the one who takes his place, has the same right.

In other lay congregations and Orders this right and duty belongs to the pastor, or to the chaplain to whom the Ordinary has given full parochial powers, according to Canon 464, § 2.

Concerning funerals of religious: From the various

Canons dealing with this question the general rule can be deducted that he who has the right to minister the last Sacraments, also has the right to bury those to whom he ministered the last rites (cf. Canons 1221 and 1230, § 5). (Canon 514.)

360. Merely honorary titles of dignities and offices are forbidden; but if the constitutions allow it, titles of major offices which a religious has actually held in his own Order are tolerated. (Canon 515.)

361. The supreme superior of a religious organization or of a monastic congregation, and the superior of a *domus formata,* must have their council, the consent or advice of which they need in various affairs, according to the regulations of the constitutions and the common law.

There should also be *economi* or procurators for the administration of the temporal goods: an *economus generalis* who has charge of the administration of goods for the entire Order or Congregation, a provincial *economus* for the province, a local *economus* for each individual house; all these shall exercise their office under the direction of the respective superior.

The General and the Provincial are not allowed to have the office of *economus;* the office of the *economus* can be combined with that of local superior, if necessity demands, but it is preferable to have a separate official for the administration.

If the constitutions are silent about the manner of electing the *economus,* the major superior and his council may elect him. (Canon 499.)

362. Every religious organization of men approved by the Holy See shall have a procurator-general who is to be designated according to the constitution. His office is to transact affairs of his Order with the Holy See.

He shall not be removed before, according to the constitutions, the term of his office expires, without consulting the Holy See. (Canon 517.)

CHAPTER II.

Confessors and Chaplains.

363. In every clerical Order or congregation there shall be appointed for each house several, lawfully approved, con-

fessors, in proportion to the number of religious, with the faculty, if there is question of exempt religious, to absolve the religious also from the reserved cases of the Order.

Religious superiors who have the power to hear confessions may, provided they observe the laws, hear the confessions of those of their subjects who of their own free will ask to be heard, but without a grave reason this should not be done habitually.

The superiors must beware of inducing, either by themselves or through others, any of their subjects by force or fear, or by importune urging, or in any other way, to come to them for confession. (Canon 516.)

364. The regulations of constitutions to the effect that the religious are to make their confession at stated times, to certain specified confessors, remain in force. However, if a religious, even of an exempt Order, for the peace of his conscience makes his confession to a priest approved by the bishop of the diocese where the confession is made, even though such priest be not appointed by the superior of the Order for the confessions of religious, the confession is valid and licit. All contrary privileges of Orders, by which their subjects could not validly confess to a priest not approved for their confessions by the Order, are hereby revoked. The priest thus chosen by a religious for his confession can absolve the penitent also from sins and censures reserved in the Order. (Canon 519.)

365. In each house of *religious women* there should be appointed only one confessor for the whole community, unless on account of the large number of religious, or for any other just cause, two or more are deemed necessary.

If any sister, for peace of soul or greater progress in spiritual life, ask for a special confessor or director, the Ordinary should readily grant the request, but he should watch that no misuse is made of this concession. If abuses creep in, the bishop shall eliminate them, saving the liberty of conscience. (Canon 520.)

366. Each community of women shall have an extraordinary confessor who shall go to the convent four times a year, on which occasions all the sisters shall go to him, at least to receive his blessing.

The local Ordinaries shall appoint several priests in the vicinity of each convent who may be called to hear the confessions of sisters in particular cases, without being required to get the faculties each time.

If a sister asks for any of these priests, no superioress is allowed, either by herself or through another, either directly or indirectly, to inquire for the reason, nor to refuse the request in words or actions, or to show dislike in any way. (Canon 521.)

367. If, notwithstanding the concessions of the two foregoing Canons, a sister goes for her peace of conscience to any confessor approved by the local Ordinary, in any church, public or semi-public oratory, the confession is licit and valid. Any privilege to the contrary of Orders and congregations is revoked. The superioress cannot forbid the sisters to go to confession outside the convent nor is she allowed to inquire about it, nor are the sisters obliged to tell her. (Canon 522.)

368. Whenever a sister is seriously ill, even though there be no danger of death, the sick sister may call any approved priest of the diocese to confess to him, even if he is not one of the particular confessors appointed by the bishop, according to Canon 521, § 2. During illness sisters may confess to such a priest as often as they desire and the superioress cannot, either directly or indirectly, forbid it. (Canon 523.) It may be noted here that in the various Canons speaking of a confessor to whom sisters may confess outside the convent, the Code says that they should be *"approbati pro mulierum confessionibus,"* which we have translated as "approved for confessions," because it is not the custom in the United States to approve a priest for confessions of men only, whereas in some other countries such a limited approval is at times given. Canon 876 declares, however, that special approval is necessary to validly hear the confessions of sisters in their own convents. From this rule Canon 523 allows an exception for cases of sickness.

369. The bishop should appoint for each community of women an ordinary and an extraordinary confessor from the secular clergy, or also from the religious with the permission of their superior. The confessor should be a priest who has

no jurisdiction in the external forum over the sisters, and he should be forty years of age or over unless the bishop for good reasons dispenses with the requirement of age.

The ordinary confessor cannot be made the extraordinary confessor, nor can he be again appointed as ordinary except after at least one year from the expiration of his term, with the exception mentioned in Canon 526; the extraordinary confessor can immediately when his term as extraordinary expires be made the ordinary confessor.

The ordinary and extraordinary confessors of religious women should not in any way interfere in the internal or external government of the community. (Canon 524.)

370. If a house of religious women is under the immediate jurisdiction of the local Ordinary, the latter chooses both the ordinary and extraordinary confessors. If the house be subject to a regular superior, he presents the confessors to the Ordinary who alone can approve them, and in case this superior neglects to present confessors, the bishop chooses them himself. (Canon 525.)

371. The ordinary confessor should not exercise his office for more than three years. The bishop may, however, reappoint him for a second and third term if on account of scarcity of priests for this work he cannot easily appoint new ones, or when the majority of the sisters, by secret vote in which every sister has a right to cast a ballot, express the wish to retain the confessor. Those sisters who dissent must be allowed to go to another confessor. (Canon 526.)

372. The local Ordinary may, for a grave reason, remove both the ordinary and extraordinary confessor, even if the convent is subject to a regular superior and the confessor be a regular, nor is the bishop bound to give any reason for the removal except to the Holy See when requested. He must, however, notify the regular superior, if the sisters are subject to him. (Canon 527.)

373. In houses of laical religious Orders or congregations of men, extraordinary and ordinary confessors should likewise be appointed according to the rules of Canons 874, § 1, and 875, § 2. If a religious asks for a special confessor, the superior shall not inquire for the reason, nor show dislike for the request. (Canon 528.)

374. If there is question of laical non-exempt religious, the local Ordinary has the right to designate the priest for the sacred ministry and for the preaching to the community; if they are exempt, the regular superior designates this priest. In default of the superior to designate a priest, the Ordinary supplies. (Canon 529.)

375. Religious superiors are strictly forbidden to induce their subjects in any way to manifest their state of conscience to them.

The subjects, however, are not forbidden to manifest of their own free will and choice their conscience to the superiors. On the contrary, it is proper that they should approach their superiors with filial confidence, and if they are priests, to reveal to them any doubts and anxieties of their conscience. (Canon 530.)

CHAPTER III.

Temporal Goods and Their Administration.

376. Not only the Order or congregation, but also the province and the individual house, are capable of acquiring and possessing temporal goods, together with fixed revenues and endowments, unless such capacity is excluded or restricted by their Rule or Constitutions. (Canon 531.)

377. The goods of the Order, of the province and individual houses, are to be administrated according to the constitutions.

Expenditures and legal acts of ordinary administration can be validly made by the superior, and also within the limits of their office by the officials designated for this purpose by the constitutions. (Canon 532.)

378. For the investment of money the previous consent of the bishop, besides compliance with the regulations of the constitutions, is required in the following cases:

1. The superioress of nuns of solemn vows and of diocesan congregations needs this consent for *any* investment of money; if the monastery of solemn professed nuns is subject to a regular superior, also his consent is required.

2. The superioress in a congregation of papal law, if

the money to be invested constitutes the dowry of professed sisters, according to Canon 549.

3. The superior, or superioress, of any religious congregation, if real estate has been donated or given by last will to the religious house for the purpose of Divine worship, or for works of charity to be carried on in that place.

4. Any religious, even of an exempt Order, if the money was given to the parish or mission, or to the religious on account of the parish or mission.

5. When the investment is changed the bishop's consent is likewise required. (Canon 533.)

379. When there is question of disposing of objects of great value, or of a sum of money exceeding six thousand dollars, or of contracting debts and obligations above the said sum, the contract is invalid unless the *beneplacitum* of the Holy See was first obtained. In smaller amounts the permission of the superior, with the consent given by his council in secret vote, is sufficient. The constitutions determining the extent of power of the General, the Provincial and local superiors, in sums below six thousand dollars are to be observed. Moreover, in the case of religious women with solemn vows, and of diocesan sisters, the written consent of the bishop is demanded; and in addition the consent of the regular superior is required by a house of nuns of solemn vows under his jurisdiction.

In the petition for consent to contract debts, or any other obligations, there must be stated the amount still owing of debts and obligations previously contracted by the house, province or Order for which respectively permission is asked, otherwise the obtained permission is null and void. (Canon 534.)

380. In every monastery of nuns with solemn vows, even exempt ones, (1) the superioress shall once a year, or more frequently if the constitutions so demand, give an account to the bishop of her administration, and also to the regular superior, if the house is subject to him; (2) if the Ordinary does not approve of the administration, he may employ proper means to remedy the defect, removing even, if necessary, the *economus* and other administrators. If the house is subject to the regular superior, the bishop shall ad-

monish the superior to remedy the deficiency, and if he does not attend to it, the bishop has the right to take the matter in hand.

In all other houses of religious women an account must be given to the Ordinary of the administration of goods that constitute the dowry of the sisters. This must be done at the visitation of the Ordinary, and even more frequently if the bishop thinks this necessary.

The Ordinary shall always have the right (1) to inquire into the financial standing of the religious houses of diocesan sisterhoods; (2) to demand an account of the administration of real estate and legacies given to parishes or for works of religion and charity in a place. (Canon 535.)

381. If a legal body (the Order as such, the province, or the individual house) has contracted debts and assumed obligations, even with the permission of the superior, the respective body is held to its obligations.

If a regular has contracted any liability with the permission of his superiors, the community whose superior gave the permission is held; if a religious with simple vows has contracted any debts he is himself liable, except in case he acted for the community with the permission of the superior.

If a religious made a contract without any permission of the superiors, he is personally responsible and the Order, province or house cannot be held for it.

In all cases the one who suffered by the contract shall have the right to sue for damages.

The superiors shall take care not to permit the contracting of debts unless it is certain that from the ordinary revenue the interest on the loan can be paid, and that in not too long a time the mortgage can be paid off. (Canon 536.)

382. Donations from the goods of a house, province or Order shall not be permitted, except by way of alms or other just cause, with the permission of the superior and in accordance with the constitutions. (Canon 537.)

TITLE XI.

Admission Into a Religious Community.

383. Admission to the religious life is open to any Catholic who is not under any legal impediment, who has the

right intention, and is capable to fulfil the duties of the religious life. (Canon 538.)

CHAPTER I.

Postulate.

384. In all organizations with perpetual vows the women, and in Orders of men the lay-brothers, must stay fully six months as postulants before they can be admitted to the novitiate. In religious communities with temporary vows, their constitutions are to be observed in regard to time and necessity of the postulate.

The major superior may prolong the time of the postulate for, at most, another six months. (Canon 539.)

385. The postulate may be spent either in the house of novitiate or in another house in which the religious life is accurately observed according to the constitutions and under the special direction of a religious of tried virtue.

The postulant shall wear plain clothing which must be different from that of the novices.

In monasteries of nuns with solemn vows the postulants are held to the law of enclosure. (Canon 540.)

386. The postulants shall, before they begin the novitiate, make a retreat for at least eight complete days and, according to the judgment of the confessor, a general confession of their whole life. (Canon 541.)

CHAPTER II.

Novitiate.

Article I. Conditions for Admission.

387. Besides the regulations of the foregoing Canons about the postulate, and other conditions imposed by the constitution of each religious organization, the following shall be observed:

I. Admission into the novitiate is *invalid:*

1. If one has adhered to a non-Catholic sect.
2. If one has not the required age.
3. If one was compelled to enter by grave fear, or by

deceit, or by force, or if a superior thus constrained received the individual.

4. If one is married, for the duration of the marriage.

5. If one actually is, or has been, a professed member of any religious body.

6. If one is subject to penalty for grave crime of which he has been, or may be, accused.

7. If one is either a residential or titular bishop, though he has been as yet only designated as such by the Pope.

8. If one is a cleric who, by the law of the Holy See, is held by oath to serve the diocese or mission, for such times as the oath lasts. In countries subject to the Propaganda the clerics are usually ordained under the explicit promise to serve the diocese or mission; in some missionary colleges the clerics take the oath to serve the missions for a definite number of years, etc.

II. *Illicitly* are received:

1. Clerics in major orders who enter without the knowledge of their bishop, or against the will of the bishop, who has the right to keep them from entering if it would entail great harm to souls and the bishop cannot in any way prevent such hardship. The Church wants religious life to be of access to all, and she has declared repeatedly that even a cleric educated at the expense of the diocese has the right to embrace religious life, unless he has taken the oath referred to above in seminaries where the Holy See has authorized the taking of such an oath. When in great need of priests, the bishop may detain a cleric for a while but as soon as he is not needed, he must be permitted to take up the religious life.

2. Those who have debts to pay and cannot settle the obligation.

3. Those who are held responsible for positions of trust or who are implicated in any other secular business, by reason of which law suits and other annoyances may come to the religious.

4. Children whose father, or mother, grandfather or grandmother, are in great want and in need of the help of

this child, or whose parents need their help for the bringing up and education of younger children.

5. Those who suffer from irregularity or any other impediment to the priesthood, are forbidden to be admitted as future candidates of the priesthood.

6. Catholics of an Oriental Rite admitted to a religious community of the Latin Rite without the permission of the S. Congregation for the Oriental Church. (Canon 542.)

388. The right of admitting candidates to the novitiate and to subsequent profession, either temporary or perpetual, belongs to the major superiors with the vote of the council or the community, according to the regulations of the particular constitutions of each Order or congregation. (Canon 543.)

389. § 1. In every religious community the aspirants without exception must, before they are admitted, submit certificates of Baptism and Confirmation.

§ 2. In Orders and congregations of men the applicants must, moreover, get testimonial letters from the bishop of their birthplace as also from all other bishops in whose dioceses they have lived for more than one, morally speaking, continuous year after their completed fourteenth year of age. Any privilege exempting from this obligation is hereby revoked.

§ 3. If there is question of admitting those who have been in any seminary or college, or in the postulate or novitiate of another Order or congregation, the testimonials of the rector of the seminary or college, after consulting with the Ordinary, or of the major religious superior are required, in addition to the testimonials spoken of in the preceding paragraph.

§ 4. For the admission of clerics there are required only the testimonials of ordination and of the bishops in whose dioceses they have lived after ordination for more than one morally continuous year, as also of the rector of the seminary where they studied.

§ 5. A professed religious who by permission of the Holy See joins another Order, needs only the testimonials of the major superior of the former Order.

§ 6. In addition to these testimonials the major superiors who have the right to receive applicants can demand of them such other testimonials as seem necessary or useful for the purpose.

§ 7. Women should be received only after accurate investigation as to their character and disposition. In case they have been in a college, etc., the testimonials decreed by § 3 must be obtained. (Canon 544.)

390. § 1. He who has to write the testimonials prescribed by these Canons, shall issue them within three months from the time they are asked for; he shall not give them to the applicants but to the religious superiors and shall append his seal. In case of seminarians, college students, and former postulants or novices in another Order, the superior or rector shall confirm the testimonial by oath.

§ 2. If he of whom are requested testimonials thinks that on account of serious reasons he cannot answer, he shall within three months explain the reasons to the Holy See.

§ 3. If he answers that the applicant is not sufficiently known to him, the religious superior shall supply the testimonials through other accurate investigation and trustworthy reports; if the bishop, rector of the seminary, etc., does not answer at all, the religious superior who needs the testimonial shall inform the Holy See about the failure of receiving an answer.

§ 4. The testimonials are to deal with the origin, manners, talents, character, reputation, studies; whether the candidate is under irregularity or other canonical impediment, whether the parents are in need of his services, and, in case of those who were in a novitiate or in a seminary or college, why they were dismissed or why they left of their own accord. (Canon 545.)

391. All those who receive the above mentioned information are strictly bound to observe secrecy as to the knowledge they secured and from what persons it was obtained. (Canon 546.)

392. § 1. In monasteries of women with solemn vows the postulant must bring the dowry required by the constitutions or determined by lawful custom.

§ 2. This dowry shall be given to the monastery before the reception of the habit, or shall at least be made certain in legal form recognized by the civil law.

§ 3. In congregations of women with simple vows, the existing customs concerning the dowry shall be observed.

§ 4. The prescribed dowry cannot be remitted, either in whole or in part, without an indult of the Holy See, if there is question of a community of papal law; and not without the permission of the Ordinary, if a diocesan congregation. (Canon 547.)

393. The dowry is acquired irrevocably by the monastery or religious congregation by the death of the religious, even though she should have taken only temporary vows. (Canon 548.)

394. After the first profession of a religious her dowry is to be placed by the superioress, acting with her council, in safe, lawful and fruitful investment. The bishop's consent is required, and also that of the regular superior if the nuns are under his jurisdiction. It is absolutely forbidden to expend the dowry in any way before the death of a sister not even for the building of the convent, or the reduction of a debt. (Canon 549.)

395. The dowry must be carefully administered at the monastery or habitual residence of the Mother General or Mother Provincial.

The Ordinaries should specially watch over the conservation of dowry and demand an exact account at the time of the visitation. (Canon 550.)

396. The dowry of a sister, either of simple or of solemn vows, who for any reason leaves the religious life must be returned to her entirely, without the interests which have already matured.

If a professed sister goes, by indult of the Holy See, over to another Order, the new Order has the right to the income from the dowry during the novitiate, and upon profession in the new Order the dowry itself must be turned over; if she is transferred to another monastery (there is understood such monastery as is of the nature of an abbey) the dowry belongs to that monastery from the time of the transition. (Canon 551.)

397. Two months at least before the reception of novices, or the profession of either temporary or perpetual, simple or solemn vows, takes place in communities of women, even exempt ones, the superioress must notify the bishop.

The bishop, or in case of absence or other impediment, the priest delegated by him, shall at least thirty days before the reception examine each of those to be received to the novitiate, or admitted to profession, whether she of her own free will enters the novitiate or makes, or renews, her profession. (Canon 552.)

Article II. Education of the Novices.

398. The novitiate begins with the reception of the habit, or in such other way as prescribed by the constitutions. (Canon 553.)

399. The house of novitiate shall be erected according to the constitutions. If, however, there is question of Orders and congregations approved by Rome, the permission of the Holy See is required for the erection of the novitiate.

There cannot, as a rule, be several novitiates in one and the same province, if the organization is divided into provinces, but if there should be grave reason for having several novitiates a special indult of the Holy See must be obtained.

The superiors must place in the house of novitiate only such religious that will give a good example of religious discipline. (Canon 554.)

400. Besides the other conditions required by Canon 542, for validity of the novitiate, the following points are demanded for a valid novitiate:

1 The candidate must be at least fifteen years of age.

2. He must stay in the novitiate for one continuous and complete year.

3. He must stay in the house of novitiate.

If the constitutions prescribe a longer period for the novitiate, this is not necessary for validity, unless the constitutions explicitly demand it under pain of invalidity. (Canon 555.)

401. The novitiate is interrupted so that it must be made over again, if the novice after dismissal by the superior

has actually left the house, or if without permission he left the house with the intention not to return, or if for any reason, even with the permission of the superior, he remained outside the house of novitiate for over thirty days, either continuous or otherwise.

If the novice remained outside over fifteen days, but not over thirty, either with the permission of the superior or by force of circumstances, as for instance, fire, flood, etc., and continued under the obedience of the superior, it is necessary for validity to supply as many days as the novice was away, even though he was absent only a day or two at a time. If all the days a novice was absent from the novitiate do not amount to over fifteen days, the superior may demand that they are supplied, but this is not required under pain of invalidity.

The superior must not give permission to a novice to remain outside, except for a serious reason.

If the novice is transferred by his superiors from one house of novitiate to another of the same Order or congregation the novitiate is not interrupted. (Canon 556.)

402. During the entire year of the novitiate the novice shall wear the habit prescribed by the constitutions, unless the peculiar circumstances of a place demand otherwise. (Canon 557.)

403. In religious communities where there are two classes of novices, the novitiate made for one class is not valid for another; for instance, in Orders where some novices are destined for the priesthood, others for lay brothers. (Canon 558.)

404. A master of novices is to be appointed for the training of the novices. He should be at least thirty-five years of age, ten years professed, counting the years from his first profession, possessed of the qualities required for his office, and in clerical religious communities the master of novices must be a priest.

If on account of the large number of the novices, or for another just cause, it seems advisable to have a sub-master of novices, he shall be under the immediate authority of the master in regard to the management of the novitiate. The sub-master should be thirty years of age or over, at least

five years professed, and possess other necessary qualifications for his office.

Both master and sub-master of novices must be free from all offices and duties which would interfere with the government of the novices. (Canon 559.)

405. The master and sub-master of novices shall be elected according to the constitutions, and, if these fix the term of office, the master and sub-master should not within their term be removed from office, except for a grave and just reason; they may be re-elected. (Canon 560.)

406. The government of the novitiate belongs exclusively to the master of novices and all others are forbidden to interfere, except those superiors to whom the constitutions give that power, and the Visitor. In reference to the discipline of the entire community, master and novices alike are subject to the local superior.

The novices are under the authority of the master and of the superiors of the Order and are held to obey them. (Canon 561.)

407. The master has the serious duty of zealously instructing the novices in the practices of religious life, according to the constitutions and the rules of Canon 565. (Canon 562.)

408. During the year of novitiate the master shall make report of the conduct of the individual novices to the Chapter, or the major superior, according to the regulations of the constitutions. (Canon 563.)

409. The novitiate must, as far as possible, be separated from that part of the house where the professed live, and without special reason and the permission of the superior or the master they shall have no communication with the professed religious, nor these with the novices.

The novices for the lay-brotherhood shall have assigned to them a separate place. (Canon 564.)

410. The master of novices must instruct the novices in the Rule and the Constitutions, in the three vows and the corresponding virtues, in prayer and meditation, in pious exercises conducive to the acquisition of virtue, and in the suppression of faulty habits.

The lay-brother novices should moreover be thoroughly

instructed in Christian doctrine, for which purpose a special instruction shall be given to them at least once a week.

During the year of novitiate the novice, if a priest, shall not be appointed to preach, or to hear confessions, or to attend to services outside the house. The novices should not engage in regular courses of studies of letters, sciences or arts. The lay-brother novices may within the religious community attend to the duties of lay-brothers, not, however, as principal brother in charge of the various workshops, for instance, and only in so far as such work does not interfere with the exercises prescribed for them in the novitiate. (Canon 565.)

411. The confessor of the novices in communities of women is to be appointed according to Canons 520-527.

In communities of men, saving the law of Canon 519, the following shall be observed:

1. According to the number of novices there should be appointed one or more ordinary confessors, provided the master of novices does not hear their confessions, which Canon 891 ordinarily forbids.

2. The ordinary confessors, in clerical religious communities, must be residents of the house of novitiate; in laical religious communities they must frequently come to the house of novitiate to hear the confessions of novices.

3. Besides the ordinary confessors, several other confessors should be appointed to whom the novices may freely go in particular cases, and the master should not show displeasure.

4. Four times a year at least the novices shall have an extraordinary confessor, whom all novices must approach to receive his blessing, if perhaps they do not want to confess to him. (Canon 566.)

412. The novices enjoy all privileges and spiritual favors granted to the Order or congregation; if they die as novices they have a right to the suffrages prescribed for professed members.

The novices shall not be promoted to orders during the novitiate. (Canon 567.)

413. If the novice during the year of novitiate renounces in any way his right to benefices, or goods, or

property, such renunciation is not only illicit but invalid by law. (Canon 568.)

414. Before taking simple vows, either temporary or perpetual, the novice must cede the administration of his temporal goods to a person of his choice and also dispose of their use and revenue at pleasure, unless the constitutions of his Order have other regulations concerning the use and revenue of the goods of novices.

If a novice did not make any arrangement concerning temporal goods because he had none at the time, and afterwards acquired some, or if he made such disposition, but acquired more goods afterwards, he shall notwithstanding his simple profession dispose of the goods according to the foregoing paragraph of this Canon.

Novices in religious congregations can, before taking temporary vows, freely dispose by last will of goods both actually possessed, and those they may chance to receive in future. Novices of Orders with solemn vows cannot dispose by last will, or any other way, of goods that may after solemn profession come to them by inheritance or other right, for from the moment of solemn profession the Order enters into all the rights of the professed, or the Holy See if the Order is incapable of possessing. (Canon 569.)

415. No compensation can be asked for the expenditures of keeping a novice in the novitiate, except what the constitutions perhaps demand for food and clothing, or what was agreed upon for these purposes by explicit contract.

Whatever the applicant brought along, and has not actually consumed by use must be returned to the individual if he does not make profession and returns to the world. (Canon 570.)

416. The novice is free to leave the community, and the superior or the Chapter, according to the constitutions, may dismiss the novice for any just cause without obligation on the part of the superior or Chapter to tell the novice the reason why he was dismissed.

When the year of novitiate is completed the novice, if judged qualified, shall be admitted to profession, otherwise he must be dismissed. If there exist some doubt as to his

fitness for profession the major superiors may prolong the time of novitiate for not longer than six months.

Before taking vows the novice shall make a retreat for at least eight full days. (Canon 571.)

CHAPTER III.

Religious Profession.

417. For the validity of any religious profession the following is required:

1. The novice must have the requisite age according to Canon 573, namely, at least sixteen years.

2. He must be admitted to profession by the legitimate superior, he, namely, who has by the constitutions of the respective Order or congregation the right to admit to profession, or to delegate others.

3. A valid novitiate must have preceded, according to the conditions of Canon 555.

4. The profession must be made without force or grave fear or deceit.

5. The profession *must be explicit.* Up to the present time there was no general law of the Church demanding an explicit profession under pain of invalidity, and an implicit profession was recognized under certain circumstances, unless the constitutions of an Order or congregation positively rejected implied profession.

6. The profession must be made into the hands of the superior whom the constitutions authorize or his delegate.

For the validity of the profession of perpetual vows, both simple and solemn, it is, moreover, required that the simple, temporary profession precedes, according to Canon 574. (Canon 572.)

418. Whosoever wants to make religious profession must be fully sixteen years of age if there is question of temporary vows; and twenty-one years in the case of perpetual profession either solemn or simple. (Canon 573.)

419. In every Order, both of men and women, and in every congregation which has perpetual vows, the novice must in the house of novitiate take temporary vows for three years, or for a longer period if he will not yet be twenty-one

years of age after three years of temporary vows. If the constitutions demand yearly profession, they are to be followed. An exception from this rule is made only in case of transition of a perpetually professed member to another Order, of which Canon 634 treats.

In this Canon there are two important points which are new in the legislation of the Church. Up to the present time the clerical novices in many Orders took simple perpetual vows immediately after the novitiate. By the present law all novices without distinction *must* take *temporary* vows for at least three years; secondly, they must be fully twenty-one years of age in order to take solemn vows in religious Orders, and simple perpetual vows in congregations. The vows up to twenty-one years of age must necessarily be temporary, for only after those years does the Code habilitate a person to take perpetual or solemn vows.

The superior who has authority to admit members to profession may prolong the period of the temporary vows by making the religious again take temporary vows, but not for more than another term of three years. (Canon 574.)

420. After the time of the temporary vows has expired, the religious may either return to the world, according to Canon 637, or make the perpetual profession which is either simple or solemn, according to the constitutions of various religious organizations. If during the period of the temporary vows the religious is not judged worthy to take solemn vows he may be dismissed in the manner defined by Canon 647.

The vote of the council or the Chapter for the first, temporary profession, is *deliberative,* which means that the superior is not allowed to act against it; for the following, perpetual profession both simple and solemn it is merely *consultive,* which does not oblige the superior to act according to the vote. (Canon 575.)

421. In the making of the profession the rite prescribed by the constitutions shall be observed.

The record of the profession shall be signed by both the religious who made the profession, and the one who received the profession. Moreover, when there is question of solemn profession, the superior who officiated shall inform the pastor

of the place where the professed was baptized, as Canon 470, § 2, demands. (Canon 576.)

422. When the time of the temporary vows expires, there should be no delay in the renewal of the vows.

Faculty is given to the superiors to allow for a good reason that the *renewal of temporary vows* may be anticipated for some time, not over one month. (Canon 577.)

423. The religious who are under temporary vows in Orders and congregations, according to Canon 574:

1. Enjoy the same indulgences, privileges and spiritual favors as the religious in perpetual or solemn vows, and if they die in temporary vows they have the right to the same suffrages as the other professed members.

2. They are held to the observance of the Rule and constitutions, but, if the Order has the obligation of the choir, they are not held to the private recitation of the Divine office, unless they are in sacred orders, or the constitutions impose the private recitation.

3. They have neither active nor passive vote, unless the constitutions explicitly state otherwise. The time, however, prescribed for having active and passive vote, for instance, the requirement of ten years of profession for being elected to an office, is counted from the first profession, if the constitutions determine nothing on this point. (Canon 578.)

424. The simple profession, both temporary and perpetual, renders actions against the vows illicit, not invalid, unless the contrary has been explicitly decreed. The solemn profession, however, renders actions contrary to the vows also invalid, if they can be invalidated by their nature. (Canon 579.)

425. Every simple professed religious, whether in temporary or perpetual vows, retains the proprietorship of his goods and the capacity to acquire other goods, within the limits of Canon 569, unless the constitutions limit the capacity to possess, or to acquire.

Whatever the religious acquires by work, or what is given him in consideration of his being a religious, he acquires for the community.

Any change which the professed religious wants to make

concerning the administration, use, etc., of his goods, spoken of in Canon 569, § 2, he cannot make of his own free will (unless the constitutions allow this), but he needs the permission of the supreme head of the Order or congregation; in communities of nuns with solemn vows the permission of the bishop, and of the regular superior also if the nuns are under his jurisdiction, is demanded. Such change cannot be allowed if it is made for the benefit of the religious community in notable quantity. By the very fact of abandoning the religious life all cession of rights and other dispositions are annulled, and the former religious regains his rights to the goods of which he had the ownership. The Church forbids that simple professed religious give up the ownership of the goods they have, for the reason that through loss of vocation or other reasons it may become necessary to dispense a religious from his vows, in which case he will need again what goods he had. (Canon 580.)

426. The simple professed religious cannot validly renounce rights of proprietorship of his goods until two months before solemn profession, at which time he must, under condition that solemn profession is made, renounce all goods which he actually has in favor of any persons he prefers. Special indults given by the Holy See to Orders of solemn vows that solemn professed members retain proprietorship of the goods they have, are to remain in force.

When solemn profession has been made, the formalities of the civil law necessary to make the renunciation of the goods of the professed valid in the civil courts should be complied with. (Canon 581.)

427. After solemn profession, saving special indults of the Holy See, all goods which may in any way come to the individual religious (1) belong to the Order, or province, or house, according to the constitutions, if the Order is capable to possess goods; (2) in an Order incapacitated by Canon Law to possess, the Holy See assumes the title of ownership. (Canon 582.)

428. The simple professed religious in congregations are not allowed: (1) to give away or make donation of their goods; (2) they may not change the last will made according to Canon 569, § 3, without permission of the Holy See,

or, if the matter is urgent and there is no time for recourse to Rome, without the permission of the major superior of the congregation, or at least the local superior if the major superior cannot be reached in time. (Canon 583.)

429. After one year from the making of any profession, parochial benefices which the professed religious possessed become vacant; other benefices after three years. (Canon 584.)

430. The religious who takes perpetual vows, whether simple or solemn, thereby loses his own proper diocese he had when in the world. (Canon 585.)

431. The profession which was invalid on account of some external impediment does not become valid by any subsequent acts; it is necessary either to obtain a *sanatio* from the Holy See, or to make the profession over again after the impediment has ceased and the religious has come to the knowledge of the nullity of his profession.

If the profession was invalid merely on account of want of internal consent, it is validated by giving consent, provided the consent of the Order or congregation has not been revoked.

If there is serious doubt as to the validity of the profession, and the religious refuses either to ask for a *sanatio ad cautelam* from the Holy See, or to make the profession over again, the matter shall be laid before the Holy See. (Canon 586.)

TITLE XII.

Studies in Clerical Religious Communities.

432. Every clerical religious organization shall have houses of study approved by the General Chapter or the superiors, and, according to Canon 554, § 3, only such religious that are perfect in their religious life shall be placed in those houses.

In the house of study the community life must be perfect, otherwise the students cannot be promoted to orders.

If the province has no properly equipped houses of study, or though it has them, access to them has become difficult. the religious students may be sent to a well equipped house of studies of another province, or another

Order, or to the episcopal seminary, or to a Catholic University.

Religious who are sent to a distant place for study are not allowed to board in private houses, but must live either in a nearby house of their Order, or with another religious community of men, or in a seminary or other institution in charge of priests and approved by the ecclesiastical authority. (Canon 587.)

433. During the entire course of studies the religious shall be under the special care of a prefect or master, who shall lead them on in religious life by timely admonition and instruction.

The prefect or master must have the same qualifications as required in the master of novices by Canon 559, § 2, § 3.

The superiors shall see to it that the regulations of Canon 595 for all religious houses are most perfectly observed in the house of studies. (Canon 588.)

434. The religious, after due instruction in the inferior studies, shall engage in the study of philosophy for at least two years, in theology four years, following the teaching of St. Thomas, according to Canon 1366, §2, and the instructions of the Holy See.

During the time of studies no duties should be imposed on professors and students which will interfere in any way with the studies. The General, and in particular cases other superiors, may exempt professors and students from some community exercises and also from the choir, especially the midnight office, if they judge it necessary. (Canon 589.)

435. The religious priests shall each year, for at least five years after the completion of the course of studies pass an examination before learned Fathers appointed for that purpose. Those who teach sacred theology, Canon Law or scholastic philosophy are exempted, and the major superiors may exempt others for a grave reason. (Canon 590.)

436. In every large community (*domus formata*) at least there shall be held once a month, or more frequently, a discussion on moral or liturgical cases to which may, at the discretion of the superior, be added a sermon on dogmatic and kindred subjects. All professed clerics who en-

gage in the study of theology, and the priests of the community must assist at these conferences, unless the constitutions rule otherwise. (Canon 591.)

TITLE XIII.

Duties and Privileges of Religious.

CHAPTER I.

Duties.

437. All religious are held to the common obligations of the clergy outlined in Canons 124-142, unless the context or the nature of the law argue the contrary. (Canon 592.)

438. All religious, superiors as well as subjects, must not only faithfully keep the vows which they have taken, but also live according to the Rules and Constitutions proper to their Order or congregation, and in this manner strive after the perfection of their state. (Canon 593.)

439. In every community the community life shall be followed by all, also in those things pertaining to food, clothing and furniture.

Whatever is acquired by religious, not excepting the superior, according to Canons 580, § 2, and 582, n. 1, must be added to the goods of the Order, province, or house, and any money, deeds, etc., must be deposited in the common treasury.

The furniture of the religious must be in harmony with the poverty they have vowed in their profession. (Canon 594.)

440. The superiors shall see to it that all religious:

1. Make a retreat each year.
2. Are present at the daily Mass, and perform the meditations and other spiritual exercises prescribed by Rule and constitutions.
3. Make their confession at least each week.

The superiors shall promote frequent and daily Communion; frequent and even daily Communion must be freely allowed to religious who are properly disposed.

If a religious after the last confession has given great scandal to the community, or has committed an external

mortal sin, the superior can forbid that person to go to Holy Communion until he has gone again to confession.

If any religious community, both of simple and solemn vows, has regulations or constitutions in which the days for Holy Communion are prescribed, such regulations shall have merely the force of directive rules. (Canon 595.)

441. All religious shall wear the habit of their Order or congregation in the house as well as outside, unless according to the judgment of the major superior, or in case of necessity, of the local superior, an exception should be made. (Canon 596.)

442. The papal enclosure must be observed in all houses of religious men and women with solemn vows, even in the small houses or residences.

Under the law of enclosure fall the whole house inhabited by the religious, with the gardens and recreation grounds reserved to the religious. The public church with the adjoining sacristy, the hospice for strangers, the parlors, which should as far as possible be near the door of the house, are excepted from the enclosure.

The places subject to the law of enclosure shall be plainly indicated by public notices. The major superior or the General Chapter, as the constitutions may determine, and in case of nuns with solemn vows the bishop, shall have the right and duty to accurately fix the limits of the enclosure or also to change them for good reasons. (Canon 597.)

443. Within the enclosure of regulars, women of any age, family and state, are forbidden to be admitted under any pretext.

Exception from this law is made for the wives and their lady attendants of the highest rulers of nations. (Canon 598.)

444. If a house of regulars has attached to it a school or college for its own students, or conducts other institutions proper to the Order, a separate part of the building should be reserved, as far as possible, for the exclusive dwelling of the religious and subject to the law of enclosure.

To the places outside the enclosure set apart for the students or for other purposes of the Order, women should not be admitted except for good reason and with permission of the superior. (Canon 599.)

445. Within the enclosure of nuns with solemn vows no person of whatever sex, age, family, and condition of life must be admitted without the permission of the Holy See. The only exceptions granted are as follows:

1. The local Ordinary, or the regular superior, or another Visitor delegated by them may at the time of visitation enter the enclosure for the purpose of inspection only, and on condition that at least one cleric or religious of mature age accompany them.

2. The confessor, or the priest who takes his place, may with due precautions enter the enclosure to administer the Sacraments or to assist the dying.

3. The highest ruler of the nation with his wife and escort; also Cardinals.

4. The Mother Superior may, with previous general permission of the local Ordinary, and the observance of due precautions, admit within the enclosure doctors, surgeons and others whose help is needed. If necessity urges, and there is no time to ask the approval of the bishop for admitting the aforesaid persons, the law presumes permission. (Canon 600.)

446. No nun with solemn vows is allowed to leave the enclosure without special permission from the Holy See, except in a case of imminent danger of death or other most serious evil.

If there is time, the local Ordinary must be consulted concerning the reason for leaving the enclosure. (Canon 601.)

447. The enclosure of nuns with solemn vows must be so arranged that view of the outside world is cut off, and that outsiders cannot look in. (Canon 602.)

448. The enclosure of nuns, though they be under the jurisdiction of the regulars, is subject to the bishop of the diocese who can punish all violations of the enclosure, even on the part of the regulars, with ecclesiastical penalties and censures.

The enclosure of nuns subject to the regulars is, moreover, under the jurisdiction and custody of the regular superior, who can punish the nuns and his other subjects with

ecclesiastical penalties for the violation of the law of enclosure. (Canon 603.)

449. In the houses of religious congregations of women, both of papal law and diocesan, the law of enclosure shall be observed so that those only who by law have a right to enter, as specified in Canons 598, § 2, and 600, shall be admitted, and others with permission of the superiors for good reason.

The regulations of Canon 599 shall be applied also to the houses of religious congregations of men and women.

The bishop may for special and serious reasons safeguard the enclosure of congregations with ecclesiastical censures, except for a clerical, exempt congregation; the bishop has, however, the right in all cases to see to the observance of the enclosure, and to correct abuses that might creep in. (Canon 604.)

450. All those whose duty it is to guard the enclosure shall see to it that the religious discipline and spirit does not suffer by useless visits of outsiders. (Canon 605.)

451. Superiors shall attend to it that regulations of their own constitutions concerning the going out of subjects, the visiting of seculars, and the visits in the parlor, are faithfully observed.

The superiors cannot give permission, outside the cases mentioned in Canons 621-624, to their subjects to live outside the houses of the Order, except for a short period. For an absence of more than six months, except in cases of study, the permission of the Holy See must be obtained. (Canon 606.)

452. The superioress and the bishops shall see to it that no sister, except in case of necessity, shall go out of the house without another sister as companion. (Canon 607.)

453. The superiors should see to it that the religious priests destined for outside work do gladly and willingly help out, at the request of the Ordinary or of the pastors, in the sacred ministry wherever they are needed, especially in their own diocese; religious discipline, however, must not suffer by it.

On the other hand, Ordinaries and pastors are urged by the Church to avail themselves of the work of the religious,

especially of those in their own diocese, in the sacred ministry, particularly for confessions. (Canon 608.)

454. If a church at which the religious live, is at the same time a parish church, the rules of Canon 415 shall be applied.

In the churches of religious women, either with solemn or simple vows, no parish can be established.

The superiors should see to it that the services in their churches do not interfere with the attendance at the catechetical instructions and the explanation of the holy Gospel in the parish churches. The judgment concerning this question is left to the bishop. This Canon has reference to places where the religious have no parish church. (Canon 609.)

455. In all houses of religious, both men and women, who have the obligation of the choir, the Divine office must be said if there are at least four choir members who are not actually impeded by lawful impediment; even fewer members may be bound to say the office in common, if the constitutions so demand it.

The Holy Mass corresponding, according to the rubrics, with the office of the day, shall daily be said in all religious houses of men, and also, as far as possible, in those of sisters.

In Orders of men, and Orders of nuns with solemn vows, who have the obligation of the choir, the solemn professed, with the exception of the lay-members, shall be bound to recite the Divine office privately, if they have been absent from choir. (Canon 610.)

456. All religious, both men and sisters, may freely write and send letters, without their being subject to inspection, when addressed to the Holy See or the Papal Legate of the country, to the Cardinal Protector of the Order, to their own major superiors, to their own local superior during his absence from the house, and to the local bishop, if they are subject to him, and the nuns who stand under the jurisdiction of the regulars, also to the major superiors of the Order. The same religious may likewise receive letters from the aforesaid superiors which no one is allowed to open and inspect. (Canon 611.)

457. The bishop may command also the exempt religious to have, according to Canon 1345, a brief explanation

of the holy Gospel in the Masses on Sundays, prescribe the ringing of church bells on certain occasions, ordain public prayers, processions, etc., saving the constitutions and privileges proper to each Order. (Canon 612.)

CHAPTER II.

Privileges of the Religious.

458. Each religious Order or congregation has only those privileges which are either contained in this Code or which have been directly granted to each, and for the future all communication of privileges is excluded.

The privileges which regulars enjoy belong likewise to the solemn professed nuns of the same Order, in as far as they are capable of enjoying them. (Canon 613.)

459. All religious, not excluding lay-brothers and novices, enjoy the privileges of clerics spoken of in Canons 119-123. (Canon 614.)

460. Regulars, and nuns with solemn vows subject to regulars, are exempt with their novices, houses and churches from the jurisdiction of the bishop of the diocese, with the exception of the cases explicitly mentioned in the law. (Canon 615.)

461. Regulars who are unlawfully away from their house, even though under the pretext of recurring to their superiors, do not enjoy the privilege of exemption.

If a regular has committed a crime outside the religious house and the Ordinary has without result admonished the superior to punish him, the Ordinary can punish such a religious, even though he was lawfully outside the house when he committed the crime, and has since returned to the house. (Canon 616.)

462. If disorders have crept into an exempt religious house and the bishop has without result asked the superiors to stop the disorders, the bishop is obliged to refer the matter to the Holy See.

The small houses or residences of even the exempt religious remain under the special vigilance of the local Ordinary, and if there abuses have crept in which are a scandal to the faithful, the Ordinary may in the meantime while await-

ing instructions from the Holy See take the steps necessary to end the scandal (Canon 617.)

463. Religious congregations with simple vows do not possess the privilege of exemption, unless it has been specially given them by the Holy See.

In religious congregations of papal law the bishop is not allowed: (1) to change the constitutions in any way, or to interfere in the administration of the goods and property, except in as far as Canons 533-535 give him the right; (2) to interfere in the internal government and discipline of the religious, except in the cases stated in law. Nevertheless, in lay-congregations the bishop has the right to inquire whether the religious discipline is observed according to the constitutions, whether in faith or morals there is fault to be found, whether the enclosure is observed, whether the Sacraments are received as frequently as they should. If the superiors, after having been admonished to correct abuses, have not done their duty he himself may take the matter in hand. If, however, anything of greater importance arises which does not suffer any delay, he may give his orders but he must report to the Holy See what he has done in the matter. (Canon 618.)

464. In all matters in which religious are subject to the bishop they may also be punished by him with ecclesiastical penalties. (Canon 619.)

465. By an indult legitimately granted by the Ordinary to the people of the diocese, the religious living in the diocese are also freed from the obligation of the common law from which dispensation was granted, saving the vows and the constitutions of the various Orders or congregations. (Canon 620.)

466. Regulars who are by their institution mendicants and live as such, may in the diocese in which they have a house go begging for alms with the sole permission of their superiors. Outside the diocese they need the written permission of the Ordinary of the diocese.

This permission the Ordinaries of nearby dioceses should not deny, nor recall, except for grave and urgent reasons, if the religious house cannot get sufficient support from the alms collected in its own diocese. (Canon 621.)

467. All other congregations of papal law are forbidden to collect alms without special permission of the Holy See. If they have obtained this permission, they need, moreover, the written consent of the local Ordinary, unless the papal indult states otherwise.

A diocesan congregation must have permission to ask for alms of both the bishop in whose diocese their house is located and the bishop in whose diocese they wish to go begging.

Religious congregations should not be allowed to go begging except when it is really necessary, and if it suffices for their needs to beg in the place or diocese where the house is located, permission to go to other places or dioceses should not be given them.

Latin Ordinaries should not allow any of the Orientals of any Order or any ecclesiastical dignity to collect money in their diocese unless these men have an authentic and recent rescript of the S. Congregation for the Oriental Church. Bishops of the Latin Rite should not let their subjects go into an Oriental diocese for alms. (Canon 622.)

468. Superiors are not allowed to send out for alms any other than professed members of mature age, especially when there is question of sisters, and never should they send out religious engaged in studies. (Canon 623.)

469. As to the manner of going out begging for alms the religious of either sex must observe the instructions that have been issued before by the Holy See. (Canon 624.)

470. The regular abbots in charge of an abbey must within three months from their election receive the blessing from the bishop of the diocese in which the abbey is situated. After the reception of the blessing they have the power to confer the first tonsure and minor orders according to Canon 964, and enjoy also the privileges mentioned in Canon 325, with the exception of the purple skull cap. (Canon 625.)

CHAPTER III.

Duties and Privileges of a Religious Promoted to an Ecclesiastical Dignity, or to Rectorship of a Parish.

471. The religious cannot without indult of the Holy

See be promoted to dignities, offices or benefices incompatible with the religious state.

A religious legitimately elected by some college to such offices cannot assent to the election without the permission of his superior.

If the religious is held by vow not to accept dignities, a special dispensation of the Roman Pontiff is required. (Canon 626.)

472. The religious raised to the Cardinalate or the episcopate, whether residential or titular, continues to enjoy the privileges of his Order, and remains subject to the vows and other obligations of his profession, with the exception of those things which according to his judgment are not compatible with his dignity. Other exceptions are contained in the following Canon.

He is, however, exempt from the authority of his superiors, and, as far as his vow of obedience is concerned, he becomes subject solely to the Roman Pontiff. (Canon 627.)

473. The religious who has been raised to the dignity of the episcopate or any other outside his own Order:

1. If he by his profession lost the ownership of goods, he gets the use, usufruct and administration of the goods which he acquires; the proprietorship of goods acquired by a residential bishop, Vicar-, or Prefect-Apostolic belongs to the diocese, vicariate or prefecture, the proprietorship of the goods of titular bishops, or any others not mentioned above, goes to the Holy See, according to the rules of Canons 582 and 239, § 1, n. 19.

2. If he did not lose proprietorship by his profession, he regains the use, usufruct and administration of the goods he had, and those he acquires afterwards he acquires for himself with full right.

In both cases he must dispose of those goods which do not come to him in consideration of his own person according to the will of the donors. (Canon 628.)

474. When he abdicates the Cardinalate or episcopate or has finished the office outside the Order committed to him by the Holy See, the religious is bound to return to the Order.

A Cardinal or a bishop returning to his Order may

choose any house of his Order where he wishes to stay but he has neither active nor passive vote. (Canon 629.)

475. The religious who rules a parish with the title of either pastor or vicar, remains bound to the observance of the vows and constitutions in as far as their observance is possible in performing the duties of his office.

Wherefore in those things which pertain to the religious discipline he is subject to the religious superior to whom alone it belongs, to the exclusion of the Ordinary, to inquire concerning his observance of the religious life and to punish him.

The goods which come to him in consideration of the parish which he governs, he acquires for the parish, other goods he acquires in the same manner as other religious of his Order or congregation.

Notwithstanding his vow of poverty he is allowed to accept and collect and administrate alms for the benefit of the parishioners, or for the Catholic school, or other pious institutes connected with the parish. He may also according to his judgment spend those alms in accordance with the intention of the donors. The superior, however, has the right to watch the doings of the pastor. To collect, accept, keep and administrate alms for the building, conservation, repair or decoration of the parish church belongs to the superior if the church is owned by the religious community; otherwise to the bishop. (Canon 630.)

476. Such a pastor or vicar is subject to the visitation, correction and entire jurisdiction of the bishop, like any other pastor, excepting only the question of his religious observances. The bishop has this power over a religious pastor even though he is pastor in the place where the major superior has his ordinary residence.

The bishop when finding the pastor neglectful in his office can issue commands and punish him with ecclesiastical penalties. The religious superior, however, has the same right as the bishop to proceed against the neglectful pastor. If the bishop and the superior disagree, the orders of the bishop prevail.

Both the bishop and the religious superior have equal rights in removing the pastor, and neither has to give a rea-

son to the other, as Canon 454, § 5, states. As regards contracts and investments, etc., concerning the goods of the parish the bishop's consent is required as demanded by Canons 533, § 1, n. 4, and 535, § 3, n. 2. (Canon 631.)

TITLE XIV.

Transition to another Order.

477. A religious cannot go over to another Order, even a stricter one, nor from one independent monastery to another, without permission from the Holy See. (Canon 632.)

478. The religious who goes over to another Order must make the novitiate, during which the vows he has taken in the first Order continue, but the particular duties and privileges of that Order are suspended. He is held to obey the superiors and the master of novices of the new Order also in virtue of the vow of obedience.

If he does not make profession in the Order to which he goes over, he must return to the former Order, unless his temporary vows have expired in the meantime.

The religious who goes over from one monastery to another of the same Order, for instance if a religious of the Order of St. Benedict obtains papal indult to join another Benedictine abbey, need not make again novitiate and profession. (Canon 633.)

479. A religious in solemn or simple perpetual vows, who obtains the papal indult to join another religious organization with solemn or perpetual simple vows, shall after the completion of the novitiate in the new Order or congregation take immediately either solemn or perpetual simple vows, or, if rejected, return to his former Order or congregation. The superior has the right to prolong the time of novitiate for another year, but no longer. (Canon 634.) This Canon is an exception to the rule of Canon 574 which demands that in all religious communities temporary vows should be made before a person is admitted to solemn or simple perpetual vows. It may be noted, also, that this Canon refers only to religious who join another Order or congregation while they are under vows. If they obtained a dispensation from their vows and after that the permission to enter another Order or congregation, they must follow the law of Canon 574.

480. Those religious who go over to another monastery of the same Order, shall from the day of transition, and those who go to a different Order, shall from the day of profession in that Order:

1. Lose all rights, and are freed from all obligations, of the former Order or monastery, and acquire the rights and are subject to the obligations of the new Order, or monastery.

2. The former Order or monastery retains the goods of which it has already acquired ownership on account of the religious. As regards the dowry and its revenue, and other personal goods which the religious might have, the rule of Canon 551, § 2, is to be observed. The new Order has the right to demand some compensation for maintenance of the religious during the year of novitiate, if the Order is according to Canon 570, § 1, allowed to accept compensation for the maintenance of novices. (Canon 635.)

481. If a religious with solemn vows has obtained permission to join a congregation with simple vows, his former solemn vows are dissolved by the very taking of simple vows in the congregation, unless the papal indult expressly states the contrary. (Canon 636.)

TITLE XV.

Departure from Religious Life.

482. The religious who has taken temporary vows may freely leave religious life when the time of the vows has expired. The superior may also for good reason refuse to let the religious take again temporary or perpetual vows and dismiss him, except for reason of illness, unless it can be proved that he had the malady before entering and intentionally deceived the Order or congregation. (Canon 637.)

483. The indult to live outside the cloister, whether temporary, called the indult of *exclaustration,* or perpetual, called *secularization,* can only be given by the Holy See for Orders and for congregations of papal law. For diocesan congregations the local Ordinary can give this indult. (Canon 638.)

484. A religious who obtained from the Holy See the

indult of exclaustration is held to the observance of his religious duties, in so far as they can be observed in his condition, but he is not allowed to wear the religious garb. During the time of the temporary secularization he has neither active nor passive vote in the Order but he enjoys the purely spiritual privileges of his Order, and, as regards his vow of obedience, he becomes subject to the bishop in place of the superiors of the Order. (Canon 639.)

485. The religious who obtains an indult of secularization and leaves the Order:

1. Becomes separated from his Order, and cannot wear the exterior garb of the Order; in Holy Mass and the Divine office, and in the reception of, and administration of, the Sacraments he is equalled to the seculars.

2. He is free from the vows but if he is in sacred orders he is held to the obligations of clerics in major orders; he is not held to the recitation of the Divine office by reason of his profession, nor to the other rules and regulations of religious life.

If the secularized religious is again received into the Order or congregation, for which an Apostolic indult is required, he must make the novitiate and profession and take his place in the community from the day of the new profession. (Canon 640.)

486. If a religious in major orders did not lose his diocese, as determined by Canon 585, and he returns to the world, either at the expiration of his temporary vows or by indult of secularization, he must go to his own diocese and the Ordinary is bound to receive him. If he has lost his diocese, namely by taking perpetual vows, he cannot exercise his major orders after having left the Order unless he finds a bishop willing to receive him, or the Holy See has made other provision.

The bishop may receive the secularized religious either unconditionally or for a three years' experiment. If received unconditionally, the religious becomes then and there incorporated in that diocese; in the other case the bishop can prolong the time of probation, not, however, for more than another term of three years. When the second term of three years has expired the religious becomes *ipso facto* incorpo-

rated, unless he has been dismissed before the end of the term. (Canon 641.)

487. Every secularized religious who may according to Canon 641 exercise the sacred ministry is nevertheless forbidden without a new and special indult of the Holy See:

1. To obtain any benefice in major and minor basilicas and in the cathedral church.

2. To obtain any professorship or office in the major and minor seminaries and in colleges in which clerics are educated, as also in any university or institution which by papal indult confers academic degrees.

3. To obtain any office or position in the Curia of the bishop, or in religious houses both of men or women, even when there is question of diocesan congregations.

These rules apply also to those men and women who have taken temporary vows, or the oath of perseverance, or certain special promises according to the constitutions of their organizations, and have been dispensed from them, after they lived in them for fully six years. (Canon 642.)

488. Religious who leave their Order or congregation at the expiration of the temporary vows, or by indult of secularization, or being dismissed, cannot ask for any compensation for work done for the Order or congregation.

However, if a religious woman had been received without a dowry and has no goods of her own, the religious organization is held by charity to give her what is necessary to reach her home in a safe and respectable manner, and to provide, according to natural equity, for some time a respectable living. This arrangement is to be made by common consent and in case of disagreement the bishop is to decide what equity demands in the case of a woman who has no means of her own, until she can get work or position. (Canon 643.)

489. An *apostate* is a religious with either simple perpetual or solemn vows who unlawfully leaves the religious house with intention not to return, or he who had indeed permission to go out but fails to return because he wants to withdraw from the religious obedience.

The evil intention to separate himself from the religious life is presumed by law if the religious does not return within

a month, nor has notified his superior of his intention to return.

A *fugitive* is a religious who leaves the house without the permission of the superiors but has the intention to return. (Canon 644.)

490. The apostate and the fugitive are not released from the obligation of observing the Rule and vows and have the duty to return without delay.

The superiors have the duty of searching for them and to receive them if they return with true repentance. In case of a sister who has become an apostate or fugitive, the Ordinary shall take the necessary steps for her return, and in case of exempt nuns also the regular superior. (Canon 645.)

TITLE XVI.

Dismissal of Religious.

491. Religious are to be considered dismissed *ipso facto* in the following cases:

1. In public apostasy from the Catholic faith.
2. If the religious elopes with a woman, or the religious sister with a man.
3. Those attempting, or contracting, marriage, or concluding a so-called civil marriage bond.

In these cases it suffices that the major superior with his Chapter or council, as the constitutions may demand, makes a declaration of the fact. He shall, however, take care that the proofs of the fact which were collected are preserved in the archives of the house. (Canon 646.)

CHAPTER I.

Dismissal of Religious with Temporary Vows.

492. The professed religious with temporary vows, both in Orders and congregations of papal law, can be dismissed by the supreme head of the organization, or the abbot of an independent monastery, with the consent of their respective council, to be expressed by secret vote. In monasteries of nuns the Ordinary, or if the house is subject to the regulars, the regular superior, can dismiss the nun, after the superioress of the monastery with her council have in writing attested the reasons for dismissal. In diocesan congrega-

tions the bishop in whose diocese the house is situated has the right to dismiss sisters but he should not make use of that right without the knowledge nor against the reasonable objection of the superioress.

The aforesaid persons cannot exercise the right of dismissal unless they conscientiously observe the following points:

1. The reasons for dismissal must be serious.

2. There may be reasons either on the part of the religious or on the part of the organization. The want of a religious spirit which is a scandal to others is sufficient reason for dismissal, if admonition together with penance did not have any result. Poor health is no reason, except it is known with certainty that the malady had before profession been intentionally concealed.

3. The reason for dismissal must be known with certainty to the superior, but a formal canonical trial is not required. The religious must be told of the reasons why he is dismissed, and be given a chance to freely answer concerning the charges, and his answer must in full be given to the superior who has the right of dismissal.

4. Against the decree of dismissal the religious has the right to appeal to the Holy See, and, pending the appeal, the dismissal has no juridical effect.

5. In reference to a dismissed sister Canon 643, § 2, is to be observed. (Canon 647.)

493. The religious who has been dismissed according to the preceding Canon is *ipso facto* solved from the vows of religion; the cleric in major orders, however, is subject to the obligations of those orders and to the other regulations of Canons 641, § 1, and 642. The cleric in minor orders is by the very dismissal reduced to the state of the laity. (Canon 648.)

CHAPTER II.

Dismissal of Religious with Perpetual Vows in Non-exempt Clerical and in All Laical Organizations.

494. In non-exempt clerical and in all laical Orders or congregations of men, a religious with perpetual vows cannot be dismissed unless he has previously committed three

crimes and been twice admonished without result, according to the rules of Canons 656-662. (Canon 649.)

495. § 1. When such a threefold crime has been committed, the supreme head of the Order or congregation, together with his council shall, considering all circumstances, discuss whether there is cause for dismissal.

§ 2. If the majority of the votes is in favor of dismissal:

1. In diocesan congregations the entire matter is to be referred to the Ordinary of the diocese where the house of the religious is situated, who may decide as he sees fit, according to Canon 647.

2. In a clerical congregation of papal law the supreme head of the congregation itself issues the decree of dismissal, but in order to have effect it must be confirmed by the Holy See.

§ 3. The religious has a right to freely defend himself, and his defense must be faithfully entered in the acts of the proceeding. (Canon 650.)

496. To dismiss religious women with perpetual vows either simple or solemn, there are likewise serious external causes required, together with incorrigibility, and time for amendment must have been granted so that the superioress may judge of the hopelessness of further experiment.

The rule of Canon 650, § 3, is to be observed also in the dismissal of sisters. (Canon 651.)

497. If there is question of diocesan congregations, the Ordinary of the place where the house of the professed sister is located, has the right to examine the reasons for dismissal, and to issue the decree of dismissal.

If there is question of solemn professed sisterhoods, the local Ordinary shall send all acts and documents to the Sacred Congregation, together with his opinion on the case, and that of the regular superior also if the monastery is subject to the regulars.

If there is question of religious congregations of women under papal law, the Mother-General shall refer the matter of dismissal to the Sacred Congregation, with all acts and documents. The Sacred Congregation will then, in this as in the preceding case, decide whatever seems best to it.

Canon 643, § 2, must be observed in case the sister is dismissed. (Canon 652.))

498. In cases of scandal to the outside world, or of very great harm to the religious community, a delinquent religious can be dismissed at once by the major superior with his council, or in case there is danger in the delay and the major superior cannot be reached in time, the local superior with the consent of his council and of the bishop of the diocese, can dismiss the religious. The matter must, however, be submitted without delay to the Holy See, either by the bishop or by the major superior, if he is present. (Canon 653.)

CHAPTER III.

The Canonical Trial in the Dismissal of Religious with Perpetual or Solemn Vows in a Clerical Exempt Religious Organization.

499. A religious man who has taken perpetual or solemn vows in a clerical exempt Order or congregation shall not be dismissed except by the process of a canonical trial. The exceptions of immediate dismissal mentioned in Canons 646, 668 hold good also in this case. Otherwise all contrary privileges are revoked. (Canon 654.)

500. The supreme head of the Order, or the Abbot General of a monastic congregation, with their council or Chapter of at least four religious, is competent to issue the decree of dismissal. If there are not at hand four consultors, the superior with the consent of the other consultors shall chose the required number of men who will act as judges with the superior.

The superior shall nominate the promotor of justice with the consent of his council according to Canon 1589, § 2, which prescribes that the promotor must be a priest of the same Order. (Canon 655.)

501. A canonical trial cannot be instituted unless there have preceded:

1. Grave external crimes, either against the common law or the law for the religious.
2. The admonitions.
3. Failure to amend. (Canon 656.)

502. The crimes must be at least three in number and of

the same species, or, if of a different species, such that, taken together, manifest the perverse will and obstinacy in sin. It may also be one continued crime which virtually becomes threefold by the admonitions. (Canon 657.)

503. In order to issue the admonitions it is required that the crime is either notorious, or that it is known by extrajudicial confession, or by sufficient proof furnished by previous investigation.

If the crime is neither notorious nor altogether certain, but only a rumor and public talk, or it has become known by denunciation, or by complaint for damages, or by the general investigation made by the superior, or any other way, there must be first a special investigation instituted in order that it may become certain whether the individual has committed the crime, and what proof there is for it. (Canon 658.) (Cf. Canon 1939.)

504. The admonition must be made by the major superior, either in person or through another by his command. The command to issue the admonition should not be given until after due investigation by the major superior, according to Canon 658, § 1; but the delegation once given for the first admonition holds good also for the second. (Canon 659.)

505. There must be at least two admonitions, one for each of the first two crimes. In crimes which are continued or permanent it is required that there is an interval of at least three days between the first and second admonition. (Canon 660.)

506. To the admonitions the superior must add exhortation and penances and other penal remedies which are judged appropriate for amendment and reparation of scandal.

The superior is, moreover, held to take the guilty religious out of the occasions of sin, even by transferring him, if necessary, to another house where he can be better watched and where the occasion of relapse is more remote.

To each of the admonitions must be added the threat of expulsion. (Canon 661.)

507. The religious is judged to have failed to amend, when after the second admonition he commits a new crime or continues in the same crime. After the second admonition six days at least must elapse before further proceedings can be instituted. (Canon 662.)

508. The immediate major superior, after the admonitions

and corrections have proved a failure, shall carefully collect the acts and documents and send them to the supreme head of the Order or congregation. The General shall give the documents to the promotor of justice who must examine them and draw his conclusion. (Canon 663.)

509. The promotor of justice has the right to institute further investigations if he thinks it proper. If he concludes that accusation should be made against the religious, the canonical process must be instituted according to the rules of the Canons in the First Part of the Fourth Book.

In the process must be proved the commission of the crime, the issuing of the admonitions, and the failure of amendment. (Canon 664.)

510. The tribunal, after due consideration of the charges of the promotor of justice and the defense of the accused, and of the points mentioned in the preceding Canon, § 2, shall pronounce the sentence of dismissal. (Canon 665.)

511. The sentence cannot be executed unless it is confirmed by the Sacred Congregation, to which the superior General shall as soon as possible send the sentence and all acts of the process. (Canon 666.)

512. For distant countries the General can, with the consent of his council, also for ordinary cases delegate the power of dismissal to trustworthy religious who must be at least three in number and who must observe the rules of Canons 663-666. (Canon 667.)

513. In the case mentioned in Canon 653, the religious can be dismissed immediately by the major superior, or, if there is danger in the delay and the major superior cannot be reached in time, by the local superior with his council. The religious must not wear the habit after being dismissed. The canonical trial, if not yet instituted, must be commenced at once, according to the preceding Canons. (Canon 668.)

CHAPTER IV.

Dismissed Religious Who Had Taken Perpetual Vows.

514. The professed religious of perpetual vows remains bound to his vows after the dismissal, unless the constitutions of

the Order or congregation, or an indult of the Holy See, declare the vows dissolved.

If the dismissed religious is a cleric in minor orders, he is by the very dismissal reduced to the state of the laity. (Canon 669.)

515. The cleric in major orders who committed one of the crimes enumerated in Canon 646, or who was dismissed on account of a crime to which the law attaches loss of good reputation or degradation, is forbidden forever to wear the clerical garb. (Canon 670.)

516. If he was dismissed for any other crime than those referred to in the preceding Canon:

1. He remains *ipso facto* suspended until he obtains absolution from the Holy See.

2. The Sacred Congregation may, if it see fit, command the dismissed religious to wear the garb of the secular clergy and stay in a specified diocese, informing the Ordinary of that diocese of the reasons for which the religious was dismissed.

3. If the religious does not obey the command spoken of in the preceding paragraph, the Order is not responsible for him, and he is thereby deprived of the right to wear the clerical garb.

4. The Ordinary of the diocese assigned for the dismissed religious shall send him to a house of penance or commit him to the care and vigilance of a pious and prudent priest. If the religious does not obey, the bishop is not responsible for him and the ex-religious forfeits the right to wear the clerical garb.

5. If the ex-religious obeys the orders of the Sacred Congregation and of the bishop, the Order or congregation to which he belonged should through the bishop furnish him with the necessary maintenance, unless he has an income from other sources to defray his maintenance.

6. If the dismissed religious does not lead a life worthy of a cleric, the Ordinary may after one year of trial, or also sooner, deprive him of the maintenance, order him out of the house where he was to stay for trial, and deprive him of the right to wear the clerical garb. The bishop shall at once send notice of this action both to the Sacred Congregation and to the Order or congregation from which the cleric was dismissed.

7. If, however, the dismissed religious behaved so well that he can justly be considered amended, the Ordinary should

endorse his petition to the Holy See for absolution from the censure of suspension, and when he has obtained the absolution, allow him in his diocese, with due precautions and limitations, the celebration of Holy Mass, and also, if he sees fit, other functions of the sacred ministry by which he may properly support himself. After this the Order may discontinue the charitable assistance. If he is a deacon or sub-deacon, the matter should be referred to the Holy See. (Canon 671.)

517. The dismissed religious whose vows were not dissolved must return to his Order or congregation. If he has for three years given signs of true repentance, the Order or congregation is bound to receive him. If there are serious reasons, either on the part of the dismissed or on the part of the religious organization, why his reception is not desirable, the matter shall be subjected to the judgment of the Holy See.

If the vows were dissolved by the dismissal and the dismissed has found a bishop willing to receive him, he remains under the jurisdiction and special vigilance of the bishop; otherwise the matter shall be referred to the Holy See. The bishop who received the dismissed religious must observe Canon 642 in reference to the position he gives the dismissed religious. (Canon 672.)

TITLE XVII.

Societies of Men or Women Leading a Community Life Without Vows.

518. A society of men or women who lead a community life after the manner of the religious under proper superiors, but without the three usual vows of religious life, is not a religious community properly so called, nor are its members religious in the strict sense of the term.

Such a society is either clerical or laical, of papal law or diocesan, according to Canon 488, nn. 3, 4. (Canon 673.)

519. The erection and suppression of such a society and of its provinces and houses follows the rules laid down for the religious congregations. (Canon 674.)

520. The government of each society is regulated by the individual constitutions. In all of them, however, Canons 499-530 must be observed. (Canon 675.)

521. The society and its provinces, as well as the indivi-

dual houses, are capable of acquiring and possessing temporal goods.

The administration of the goods is regulated by the rules of Canons 532-537.

Whatever the members of the society acquire in consideration of the society, belongs to the society; the other goods they retain, acquire and administrate according to their constitutions. (Canon 676.)

522. In the admission of candidates the constitutions of the society shall be observed in so far as they are not contrary to Canon 542. (Canon 677.)

523. In the arrangement of studies and the reception of orders the members of the society are held to the same laws as the secular clergy, saving special regulations which the Holy See may have given to some society. (Canon 678.)

524. The members of a society are held to the common obligations of clerics, besides their special regulations contained in the constitutions, unless the nature of the law, or the context, shows that the law is not intended for members of a society. They are also held to the obligations of the religious as outlined in Canons 595-612, unless their constitutions rule otherwise.

They shall observe the enclosure according to their constitutions, under the supervision of the local Ordinary. (Canon 679.)

525. The members of the society, both clerics and lay brothers, enjoy the privileges of clerics as contained in Canons 119-123, and other concessions given directly to the society. They do not have the privileges of religious unless granted them by special indult of the Holy See. (Canon 680.)

526. Besides the proper constitutions of individual societies regarding the transition to another society or another religious body, and the departure of members of societies either diocesan or of papal law, these matters shall with due distinction be regulated by Canons 632-635, 645; in reference to the dismissal of members Canons 646-672 are to be observed. (Canon 681.)

PART III.

THE LAITY.

527. The laity has the right to receive from the clergy the spiritual benefits and specially the necessary means of salvation, according to the rules of ecclesiastical discipline. (Canon 682.)

528. Laymen are not allowed to wear the clerical garb, with the exception of seminarians and other candidates of orders to whom Canon 972, § 2, refers, and laymen legitimately appointed to the service of the church while they are, either within the church building or outside, engaged in the ministry of the church. (Canon 683.)

TITLE XVIII.

General Regulations for Associations of the Faithful.

529. The faithful deserve praise for joining associations erected, or at least recommended, by the Church. They should beware of associations that are secret, condemned, seditious, suspected, or those which strive to withdraw from the legitimate supervision of the Church. (Canon 684.)

530. Associations distinct from the religious organizations and societies spoken of in Canons 487-681, can be erected by the Church either to promote a more perfect Christian life among its members, or for the undertaking of works of piety and charity, or, finally, for the advancement of the public cult. (Canon 685.)

531. No society is recognized in the Church unless it has been either erected by the competent ecclesiastical authority, or at least approved by it.

To erect and approve societies is the privilege of the Roman Pontiff and of the bishop. Some are by papal indult reserved to others.

Though it can be proved that a papal privilege was granted to some one to erect a certain society, the consent of the bishop, given in writing, is nevertheless required for the validity of the erection of a society. The consent of the bishop given for the erection of a religious house is valid also for the erection, in that house or church, of a society annexed to that Order or congregation, if it is not of the nature of an organic body and is proper to the religious community.

A Vicar General by merely general commission, and a Vicar Capitular, cannot erect societies, nor give consent for their erection or for aggregation.

The letters of erection given by persons who in virtue of an apostolic indult have the right to erect certain societies must be given gratis, excepting only a tax for the necessary expenses. (Canon 686.)

532. The societies do only then acquire the right of a legal person in the Church when they have obtained from the competent ecclesiastical superior the decree of erection. (Canon 687.)

533. An association should not assume a name or title which savors of levity or unbecoming novelty, or gives expression to a form of devotion not approved of by the Holy See. (Canon 688.)

534. Every society shall have its statutes approved, either by the Holy See or by the bishop of the diocese.

Statutes that have not been confirmed by the Holy See remain always subject to modification and correction by the bishop. (Canon 689.)

535. All societies, even those erected by the Holy See, are under the jurisdiction and vigilance of the bishop of the diocese, unless there is a special privilege of exemption, and the bishop has the right and the duty to inspect them.

Societies, however, that have been erected by the religious in their own churches in virtue of an apostolic indult, the bishop has no right to visit in regard to internal discipline or spiritual direction of these societies. (Canon 690.)

536. A society legitimately erected, may, unless the contrary has been expressly ordered, possess and administrate temporal goods under the authority of the bishop of the diocese, to whom it should render a financial statement at least once a year. This is to be done by the society itself and not by the pastor in whose parish the society is erected, unless the bishop has ordered the pastor to make such report.

The society may, according to its statutes, receive alms and spend them for the pious purposes of the society and in accordance with the intention of the people who make the offerings.

No society may collect alms unless either the statutes permit it, or necessity require it, and it has the permission of the Ordinary of the diocese whose regulations in this matter must be observed.

If the society wishes to collect alms outside the diocese, the permission in writing of the bishop in whose diocese it wishes to collect must be obtained.

The society must give to the bishop in whose diocese it is established an exact account of the alms collected, and how they were spent. (Canon 691.)

537. In order to participate in the rights, privileges, indulgences and other spiritual favors of a society, it is required that a person be validly received into the society according to the statutes proper to the society, and that one has not legally been deprived of membership. (Canon 692.)

538. Non-Catholics, members of a condemned society, persons publicly known to be under ecclesiastical censure, and in general any public sinners cannot be validly received into a society.

The same person may be ascribed to several societies, except several Third Orders (cf. Canon 705).

Absent persons cannot be enrolled in a society which is constituted in the form of an organic body, and those present cannot be received except with their knowledge and consent.

Religious may be received into societies, except Third Orders, unless the laws of the society are according to the judgment of the superiors incompatible with the observance of the Rule and constitutions of the Order or congregation. (Canon 693.)

539. The reception should be performed according to the rules of the common law and the particular statutes of the individual societies.

In order that there may be a record of the reception the names should by all means be entered in the roll-book of the society and this inscription is required for validity of membership if the society is erected as a legal person. (Canon 694.)

540. On occasion of the reception into a society no payment should be demanded, either directly or indirectly, except the fees which the lawfully approved statutes prescribe, or which the Ordinary of the diocese has sanctioned for reason of special circumstances. (Canon 695.)

541. No member of a society shall be dismissed from the same except for a good reason, and in accordance with the statutes.

Members who fall into a case mentioned in Canon 693, § 1, shall after previous admonition be deprived of membership in the manner provided in the statutes of the respective society. Recourse to the bishop is open to a member who thinks himself unjustly expelled.

The bishop shall always have the right to dismiss members of any society, even though there is no such provision in the sta-

tutes, and the religious superior may dismiss members of societies that are by virtue of Apostolic indult erected by religious. (Canon 696.)

542. Lawfully erected societies have the right to hold meetings, publish regulations for the society itself, elect administrators of the goods of the society, officers and assistants, in accordance with the rules of law and their proper statutes. Canon 715 rules that the bishop's right of jurisdiction over the societies and all their proceedings must be respected. (Canon 697.)

543. Unless an Apostolic indult states the contrary, the nomination of the moderator and the chaplain of societies which are either erected or approved by the Holy See, and of societies erected by religious in virtue of Apostolic indult outside their own churches, belongs to the bishop of the diocese. For societies erected by religious in their own churches the moderator and chaplain are appointed by the religious; if, however, the superior should appoint a secular priest for these offices the consent of the bishop of the diocese is required.

The moderator and chaplain have for the time of their office the faculty to bless the habit of the society, its insignia, scapulars, etc., and to invest the new members with them.

The moderator and chaplain can be removed from office for good reasons by those who appointed them, or by their superiors or their successors in office.

The same priest can be both moderator and chaplain. (Canon 698.)

544. For serious reason the bishop of the diocese can suppress societies which were erected either by himself or by his predecessor, and also societies erected by religious in virtue of apostolic indult with consent of the Ordinary. Recourse to the Holy See is permitted to those concerned.

Societies erected by the Holy See itself can be suppressed only by the Holy See. (Canon 699.)

TITLE XIX.

Particular Regulations for Associations of the Faithful.

545. There are three kinds of Associations or Societies of the faithful, namely *Third Orders Secular, Confraternities, Pious Unions.* (Canon 700.)

546. The order of precedence between the various lay societies is as follows: (1) Third Orders, (2) Archconfraternities, (3) Confraternities, (4) Primary Pious Unions, (5) Pious Unions.

The Confraternity of the Blessed Sacrament precedes the Archconfraternities in processions of the Blessed Sacrament.

A society has only then the right of precedence when it takes part in ecclesiastical functions in a body, under cross or banner of their own, and vested with the insignia or the habit of the society. (Canon 701.)

CHAPTER I.

Third Orders Secular.

547. Secular Tertiaries are those persons who in the world strive after Christian perfection, under the guidance of, and in harmony with, the spirit of some Order, in a manner compatible with the life in the world and according to rules approved by the Holy See.

If the Third Order Secular is divided into several societies each legitimately established branch is called a Sodality of Tertiaries. (Canon 702.)

548. No Order or congregation can call into life a Third Order. The privileges granted to some Orders to have a Third Order are to continue.

Though an Order has the Apostolic indult to erect the Third Order, they cannot validly establish a Sodality of Tertiaries in any church without the consent of the bishop of the diocese, though they may receive into the Third Order individual persons, according to the law of Canon 686, § 3.

The religious cannot allow the Sodalities of Tertiaries to wear the particular garb of that Third Order in public sacred functions without a special permission of the bishop. (Canon 703.)

549. Persons who have taken vows, either perpetual or temporary, in some religious organization, cannot at the same time belong to any Third Order, though they had been received into the Third Order before they embraced religious life.

When such person's vows cease or are dissolved, the former membership revives. (Canon 704.)

550. No Sodality of Tertiaries can without an Apostolic indult receive Tertiaries of another Third Order, if they intend to remain in the former Third Order. Individual Tertiaries may go over from one Third Order to another and also from one sodality to another of the same Third Order. (Canon 705.)

551. The Tertiaries may, but are not obliged to, take part in a body in public processions, funerals and other ecclesiastical functions. If, however, they are present, they must march under their own cross, wearing the insignia of their Order. (Canon 706.)

CHAPTER II.

Confraternities and Pious Unions.

552. Associations of the faithful erected for the exercise of some work of piety or charity come under the name of Pious Unions; if these associations are established after the manner of an organic body they are called in law *Sodalitia.*

Sodalitia which have, morever, for their purpose the furtherance of Divine worship are called *Confraternities.* (Canon 707.)

553. Confraternities can be erected only by a formal decree of erection. For the erection of Pious Unions the approval of the Ordinary is sufficient, which entitles them to gain spiritual favors, especially indulgences. (Canon 708.)

554. The members of a confraternity cannot take part in a body in sacred functions unless they wear the insignia or the habit of the confraternity.

Women can be enrolled in confraternities for the purpose only of gaining the indulgences and spiritual favors of the confraternity. (Canon 709.)

555. The titles of Confraternities and Pious Unions are to be taken from the attributes of God, the mysteries of the Christian religion, the feasts of our Lord, the Blessed Virgin, the Saints, or the work itself of the society. (Canon 710.)

556. There should not be several confraternities of the same name and institution in the same town, unless the law or special regulations allow an exception. In large cities it is left to the judgment of the bishop what distance is considered sufficient for the establishment of confraternities of the same kind in various churches.

The Holy See desires that the bishops establish in every parish the confraternities of the Blessed Sacrament and of Christian Doctrine, which, when legally erected by the Ordinary, *ipso facto* obtain affiliation with the archconfraternities erected at Rome by the Cardinal Vicar. (Canon 711.)

557. Confraternities and Pious Unions should be erected only in churches, public and semi-public oratories.

They should not be established in the cathedral and in collegiate churches without the consent of the Chapter.

In churches and oratories of religious women the bishop can allow only the erection of societies of women, or of Pious Unions, who only meet for the recitation of certain prayers and have merely communication of spiritual favors with some confraternity. (Canon 712.)

558. The religious can give to the Confraternities and Pious Unions erected by them those indulgences which the Holy See has declared communicable, and they should at the time of the erection of the confraternity be made known to all members.

They cannot allow the confraternity to wear in public sacred functions the habit or other insignia without special permission of the bishop. (Canon 713.)

559. The confraternities shall not change, nor abandon, the habit or insignia proper to the confraternity without permission of the bishop. (Canon 714.)

560. The bishop has the right to preside at the meetings of confraternities, even in the churches and oratories of regulars, and though he has no vote in the election of the officers he has the right either in person or through a delegate to watch over the election, confirm or reject the officers elected, and unless the statutes are approved by the Holy See he can correct and change them.

If the confraternities wish to hold extraordinary meetings they shall advise the Ordinary or his delegate in due time, otherwise the bishop has the right to stop the meeting and cancel their proceedings. (Canon 715.)

561. The Confraternities and Pious Unions which have been erected in churches of their own, have the right, with due observance of the law, to have non-parochial functions independently of the pastor, provided they do not injure the parochial ministry in the parish church. The bishop has the right to decide

whether or not the functions of the confraternity unduly interfere with the services in the parish church. (Canon 716.)

562. The goods and belongings of a Confraternity or Pious Union established in a parish church or any other not belonging to the confraternity itself, must be kept separate from the accounts of the parish. (Canon 717.)

CHAPTER III.

Archconfraternities and Primary Unions.

563. Societies which possess the right to affiliate to themselves other associations of the same kind, are called Archconfraternities, or Primary Unions, Congregations, Societies. (Canon 720.)

564. No association can without Apostolic indult affiliate other societies.

Archconfraternities and Primary Unions can affiliate only such Confraternities and Pious Unions which have the same title and the same purpose, unless the papal indult grants greater powers. (Canon 721.)

565. By the affiliation are communicated all indulgences, privileges and other communicable spiritual favors which have been granted to the affiliating body directly and by name, or shall in future be granted in that manner by the Holy See, unless a restriction is made in the papal indult.

The affiliating body does not acquire any right over the other confraternity by the act of affiliation. (Canon 722.)

566. For the validity of the affiliation the following is required:

1. the association must have been already canonically erected and not been affiliated before to any other Archconfraternity or Primary Union;

2. the affiliation must be done with the written consent of the bishop of the diocese together with his testimonial letters;

3. the indulgences, privileges and other spiritual favors which are communicated by the affiliation must be enumerated in an *elenchus* which is to be inspected by the bishop of the diocese where the archconfraternity resides and be given to the affiliated society;

4. the affiliation is to be given in the prescribed formula and for all times;

5. the letters of affiliation must be issued absolutely gratis without any retribution even in the form of alms, except the necessary expenses. (Canon 723.)

567. The Archconfraternity or Primary Union cannot be transferred from its residence to another place except by the Holy See. (Canon 724.)

568. The title of Archsodality or Archconfraternity or Primary Union cannot be given, even as an honorary title, to any society by another than the Holy See. (Canon 725.)

THE THIRD BOOK

Sacred Things

569. The things spoken of in this book are so many means for obtaining the purpose of the Church; some of these are spiritual, others are temporal, others mixed. (Canon 726.)

570. The intentional will to buy, or sell, for a temporal price things intrinsically spiritual, e. g., the Sacraments, ecclesiastical jurisdiction, consecration, indulgences, etc., or a temporal object annexed to the spiritual in such a way that the temporal object cannot exist without the spiritual, e. g., an ecclesiastical benefice, or when the spiritual good is the object even though only partially of the contract, e. g. the consecration in the sale of a consecrated chalice, is Simony forbidden by the *Divine law.*

Again, to give temporal objects annexed to the spiritual for other temporal objects annexed to the spiritual, or spiritual objects for spiritual, or temporal for temporal, in cases where the Church forbids this for the sake of reverence toward spiritual objects, constitutes Simony by *ecclesiastical law.* (Canon 727.)

571. When there is question of simony, the buying and selling, exchange, etc., is to be taken in a wide sense for any agreement, even though it did not take effect, and even though the agreement was merely tacit, namely, such in which the simoniacal intention was not expressly manifested, but can be understood from the circumstances. (Canon 728.)

572. While the penalties of law remain, the simoniacal contract is null and void if simony is committed concerning benefices, offices, dignities, the subsequent conferment is likewise void, even though the simony was committed by a third person and without one's knowledge, provided it was not done fraudulently to injure the one who was to get the office or done against his protest.

Wherefore, (1) before any sentence of the judge the valuables given and accepted simoniacally must be returned, if such restitution is possible and can be done without irreverence to the

spiritual, and the benefice, office or dignity must be vacated; (2) the one who through simony obtained the benefice or office does not become the owner of the income of that office; if he received it in good faith it is left to the prudent judgment of the ecclesiastical judge, or the Ordinary, to condone the income thus received, either in whole or in part. (Canon 729.)

573. There is no simony when the temporal object is not given for the spiritual, but rather on occasion of it, by a just title acknowledged by law or legal custom. The same holds good when the temporal object is given for another temporal object which has something spiritual annexed to it, as for instance, the consecrated chalice, provided the price is not raised on account of the blessing or consecration. (Canon 730.)

PART I.

THE SACRAMENTS.

574. As all the Sacraments instituted by our Lord are the principal means of sanctification and salvation, they should be administered and received with great care and reverence.

It is forbidden to minister the Sacraments of the Church to heretics and schismatics, even though they are in good faith and ask for them, unless they have first renounced their errors and been reconciled to the Church. (Canon 731.)

575. The Sacraments of Baptism, Confirmation and Orders which imprint a character cannot be received a second time.

If, however, there is prudent doubt whether they have been received, or whether they were validly received, they may be conditionally repeated. (Canon 732.)

576. In the administration and reception of the Sacraments the liturgical rites and ceremonies prescribed in the approved ritualistic books of the Church must be accurately observed.

Each one shall follow his own Rite, saving the exceptions of Canons 851, § 2, and 866. (Canon 733.)

577. The holy oils required in the administration of several of the Sacraments, must have been blessed by the bishop on the preceding Holy Thursday, nor are the old ones to be used except in case of necessity. When the holy oils are about to give out, other olive oil that has not been blessed may be

added, even repeatedly, but always in smaller quantity than the holy oils. (Canon 734.)

578. The pastor must obtain the holy oils from his bishop and keep them in the church in a safe and becoming place under lock and key. He shall not keep them in his house except where necessity or other good reason approved by the Ordinary justify him to do so. (Canon 735.)

579. In the administration of the Sacraments the minister shall not exact or ask for any remuneration, for any reason or occasion, directly or indirectly, except the offerings spoken of in Canon 1507, § 1. (Canon 736.)

TITLE I.

Baptism.

580. Baptism, which is the door and foundation for all other Sacraments, and which, either actually received or at least desired, is necessary for salvation to all, is given validly only by ablution with truly natural water and pronouncing the prescribed form of words.

Baptism administered with the observance of all the rites and ceremonies prescribed in the liturgical books, is called *solemn,* otherwise not solemn, or *private.* (Canon 737.)

CHAPTER I.

The Minister of Baptism.

581. The *ordinary* minister of solemn Baptism is the priest. Its ministration, however, is reserved to the pastor or to another priest acting with the permission of the pastor or of the local Ordinary, which permission is lawfully presumed in a case of necessity.

Even a *peregrinus,* i. e. a person who is at the time outside the parish where he resides, should go to his own proper pastor to be baptized solemnly, if this can be easily done and without delay; otherwise any pastor may in his territory solemnly baptize the *peregrini.* (Canon 738.)

582. In the territory of another pastor no pastor is allowed to baptize solemnly, not even one of his own parishioners, without due permission. (Canon 739.)

583. Where parishes or quasi-pārishes are not yet established, the diocesan statutes and accepted customs should be consulted in order to know what priest, besides the Ordinary, has the right to baptize, either in the entire territory or in some particular district. (Canon 740.)

584. The deacon is the *extraordinary* minister of solemn Baptism. He cannot, however, use his power without the permission of either the bishop or the pastor, which may be granted for a just cause and may lawfully be presumed when necessity urges. (Canon 741.)

585. Private Baptism may be given by any one who uses the proper matter and form and has the right intention. As far as possible two witnesses, or at least one, should be present at such a private Baptism, by whom the conferring of Baptism may be proved. (cf. Canon 759.)

If a priest is present he should be preferred to a deacon, a deacon to a subdeacon, a cleric to a lay person, a man to a woman, unless decency demand that the woman be preferred, or in case the woman knows better the form and manner of Baptism.

The father and mother are not allowed to baptize their own child except in danger of death if there is no one else at hand who can baptize. (Canon 742.)

586. The pastor should take care that the faithful, especially midwives, doctors and surgeons, learn how to baptize properly in case of necessity. (Canon 743.)

587. The Baptism of adults, where it can be conveniently done, should be referred to the bishop, in order that he himself or his delegate may baptize more solemnly. (Canon 744.)

CHAPTER II.

The Subject of Baptism.

588. A subject capable to receive Baptism is *omnis et solus homo viator,* i. e. a human being born into this life, who has not yet been baptized.

When there is question of Baptism, the term *parvulus,* or *infans,* means, according to Canon 88, § 3, one who has not yet the use of discretion, and held equal to them are those insane from infancy, no matter of what age they may be. *Adults* are

called those who have the use of reason, and it is sufficient for admitting these latter to Baptism that they of their own free will ask for it. (Canon 745.)

589. An infant shall not be baptized while still enclosed in the mother's womb, as long as there is probable hope that it can be baptized when born.

If the infant puts forth the head, it may be baptized on the head, if there is immediate danger of death, and Baptism shall not then be given again conditionally if the child lives.

If the infant puts forth any other limb, it may be baptized on that limb conditionally, if there is imminent danger to life, but if the infant is born alive it must be baptized again conditionally.

If the mother dies in pregnancy, and the fetus, when extracted by those whose duty it is to do this, shows sure signs of life, it shall be baptized absolutely; conditionally, if life is doubtful.

If the fetus was baptized in the mother's womb, the child shall, when born, be baptized again conditionally. (Canon 746.)

590. Care should be taken that every fetus born prematurely, no matter at what stage of pregnancy, be baptized absolutely, if life is certain, but conditionally if life is doubtful. (Canon 747.)

591. Monstrous and unusual forms of fetus should always be baptized, at least conditionally; when in doubt whether the fetus is one being or several, one should be baptized absolutely, the others conditionally. (Canon 748.)

592. Infants that have been abandoned and found shall be conditionally baptized, if after careful investigation there is no certainty about their Baptism. (Canon 749.)

593. An infant of infidel parents can lawfully be baptized even though the parents object, in case the danger of death is such that it may be prudently judged the child will not live until he comes to the use of reason.

Outside danger of death the infant may be licitly baptized, provided there is guarantee for the Catholic bringing up of the child, (1) if the parents or guardians, or at least one of them, consent, (2) if there are no parents, i. e. father or mother, nor grandfather or grandmother, nor guardians, or if they have lost the right to the child, or cannot in any way exercise that right. (Canon 750.)

594. Regarding the child of two Protestants or schismatics, or two fallen-away Catholics, the rules of the above Canon shall generally be followed. (Canon 751.)

595. An adult should not be baptized except with his own knowledge and will, and after due instruction. He is, moreover, to be admonished to repent of his sins.

In danger of death, if he cannot be thoroughly instructed in the principal mysteries of faith, it is sufficient for the conferring of Baptism that he show in some way his assent to these points of faith, and earnestly promises that he will keep the Commandments of the Christian religion.

If he cannot even ask for Baptism, but has either before, or in his present condition manifested in some probable manner an intention of receiving Baptism, he may be baptized conditionally. If afterwards he gets well, and there remains doubt as to the validity of the Baptism, he may be baptized again conditionally. (Canon 752.)

596. Both, the priest as well as the adult to be baptized, if he is in good health, are advised to remain fasting.

Unless there are grave and urgent obstacles, the baptized adult should immediately after Baptism assist at Holy Mass and receive Holy Communion. (Canon 753.)

597. Insane and delirious persons should not be baptized unless they have been such from birth, or became such before they had obtained the use of reason, in which case they should be baptized like infants.

If they have lucid intervals, they may in those moments be baptized if they desire it.

They may also be baptized in imminent danger of death, if before becoming insane they have shown a desire for Baptism.

Those suffering from lethargy or delirium should be baptized only while conscious and desirous of Baptism; if the danger of death is imminent, the rule of the foregoing paragraph of this Canon is to be followed. (Canon 754.)

CHAPTER III.

The Rites and Ceremonies of Baptism.

598. Baptism should be given solemnly, except in the cases spoken of in Canon 759. The local Ordinary can for a grave

and reasonable cause allow the ceremonies for the Baptism of infants to be used for the Baptism of adults. (Canon 755.)

599. The child must be baptized according to the Rite of the parents. If one of them belongs to the Latin Rite, the other to an Oriental, the child shall be baptized in the Rite of the father, unless other rules have been made by special law. If only one of the parents is a Catholic, the child shall be baptized in the Rite of the Catholic party. (Canon 756.)

600. In solemn Baptism water blessed for that purpose shall be used. If the water in the baptismal font be so diminished that it does not suffice, other common water may be added in smaller quantity, and this may be repeated. If the blessed water has become putrid, or has escaped from the font, or is wanting for any other reason, the pastor should have the font well cleaned, then put in fresh water and bless it as prescribed in the ritual. (Canon 757.)

601. Though Baptism may be conferred validly in any of the three ways: infusion, immersion, aspersion, the first or second, or both mixed, whichever is more in use, should be retained, according to the approved rituals of the various dioceses. (Canon 758.)

602. In danger of death private Baptism may be given. If it is administered by one who is neither a priest nor a deacon, only that should be done which is necessary for the validity of the Baptism. If a priest or a deacon baptizes, and there is time, he should perform the ceremonies that follow Baptism.

Outside the case of danger of death, the Ordinary cannot allow private Baptism, except in cases of adult converts from heresy who are baptized conditionally.

The ceremonies of Baptism, which for any reason had been omitted in the conferring of Baptism, should as soon as possible be supplied, except in the case mentioned in the preceding paragraph. (Canon 759.)

603. If Baptism is given again conditionally, the ceremonies should be supplied if they were omitted in the first Baptism, saving the exception of the foregoing Canon. If the ceremonies were observed in the first Baptism, one is at liberty to go through them again or not. (Canon 760.)

604. The pastor shall take care that the one baptized receives a Christian name; if they do not succeed in this they should

add to the name given by the parents the name of some saint, and enter both names in the baptismal record. (Canon 761.)

CHAPTER IV.

Sponsors.

605. According to a most ancient custom, no one is baptized solemnly unless he has, whenever possible, a sponsor. Even in private Baptism a sponsor should be had, if it is easily possible; if there was no sponsor in the private Baptism, there should be one in the supplying of the ceremonies, but in that case he does not contract any spiritual relationship. (Canon 762.)

606. When Baptism is repeated conditionally, the same sponsor should, if possible, act who was present at the first Baptism; outside this case, there is no need of a sponsor in conditional Baptism.

In the repetition of Baptism under condition, neither the sponsor of the first, nor the one at the second Baptism contract spiritual relationship, unless the same sponsor was present at both Baptisms. (Canon 763.)

607. There should be but one sponsor, who may be either of the same sex with the one to be baptized, or of the different sex; but two sponsors, at most, namely, one man and one woman, are allowed. (Canon 764.)

608. In order that one may *validly* act as sponsor, he must:

1. be baptized, of the age of discretion, and have the intention to undertake that office;

2. he must not belong to an heretical or schismatical sect, not be excommunicated by a condemnatory or declaratory sentence, nor suffer from infamy of law, nor be excluded from legal actions, nor be a deposed or degraded cleric;

3. he must not be the father or mother of, or married to, the one to be baptized;

4. he must be designated either by the one to be baptized or by the parents or guardians, or in their default, by the minister of Baptism;

5. The sponsor must, either in person or through proxy, physically hold or touch the one baptized, or receive him im-

mediately after Baptism from the sacred font or from the hands of the minister. (Canon 765.)

609. In order that one may *licitly* act as sponsor, he must:

1. be fourteen years of age, unless for a just reason the minister admits younger ones;

2. he must not be under excommunication for a notorious crime, nor excluded from legal actions, nor suffer from infamy of law, even though no sentence was pronounced against him in the ecclesiastical court, nor must he be under an interdict, or otherwise a public criminal, or disgraced by infamy of fact;

3. he must know the rudiments of the faith;

4. he must not be a novice or professed member in any religious organization, unless there is no other to act as sponsor and permission is granted by at least the local superior;

5. he must not be in sacred orders, unless he has the express permission of his own Ordinary to act as sponsor. (Canon 766.)

610. In doubtful cases as to whether one can validly or licitly be admitted as sponsor, the pastor should, if time permits, consult the Ordinary. (Canon 767.)

611. In Baptism spiritual relationship is contracted with the one baptized by the minister and the sponsor. (Canon 768.) In this, therefore, the law of the Council of Trent has been greatly restricted, so that no impediment is contracted with the parents.

612. It is the duty of the sponsor, by virtue of his office, to take an interest in his spiritual child, and to take good care that he is instructed in the duties of a Christian life and that he lives up to it, as in the ceremony he solemnly pledged himself for this. (Canon 769.)

CHAPTER V.

Time and Place of Baptism.

613. Infants should be baptized as soon as possible. Pastors and preachers should often remind the faithful of this grave obligation. (Canon 770.)

614. Private Baptism may, in case of necessity, be given at any time and in any place. (Canon 771.)

615. Solemn Baptism may be given any day. It is most

proper, however, according to the most ancient rite of the Church, to baptize adults on the vigils of Easter and Pentecost, especially in metropolitan and cathedral churches, if this can be done conveniently. (Canon 772.)

616. The proper place for solemn Baptism is the baptistry in churches and public oratories. (Canon 773.)

617. Every parish church shall have a baptismal font; all contrary statutes, privileges and customs are disapproved and rescinded. If other churches have acquired the right to have baptismal fonts, such rights may continue.

The bishop can for the convenience of the people allow or demand that baptismal fonts be placed also in other churches and public oratories within the limits of the parish. (Canon 774.)

618. If the child cannot be brought to the parish church, nor to any other having the right to baptize, on account of distance or any other circumstances attended by great inconvenience or danger, the solemn baptism can and must be given by the pastor in the nearest church or public oratory within the parish, even though there be no baptismal font. (Canon 775.)

619. In *private houses* solemn Baptism cannot be given except under the following conditions:

1. if those to be baptized are the sons or nephews of the highest ruler of a country, or have the right of succession to the throne, if they lawfully ask to be so baptized;

2. if the local Ordinary with prudent and conscientious judgment should allow it when in some extraordinary case there are good reasons to have the Baptism in the private house;

3. in these cases Baptism must be given in the private chapel of the house, or at least in a decent place, and baptismal water is to be used. (Canon 776.)

CHAPTER VI.

Recording and Proof of Baptism.

620. The pastor should, carefully and without delay, enter into the records the name of the one baptized, the minister, parents and sponsors, date and place.

In the Baptism of illegitimate children the name of the mother is to be entered, if her motherhood is publicly known,

or if she of her own accord demands this either in writing or before two witnesses. Also the name of the father, provided he himself demands it either in writing or before two witnesses, or if he be known from some public document. In all other cases the child should be entered as one whose father or parents are unknown. (Canon 777.)

621. If Baptism was not given by the pastor, nor in his presence, the minister shall as soon as possible inform the pastor of the domicile of the one baptized. (Canon 778.)

622. For the proof of Baptism, where no third party is harmed, one witness who is absolutely trustworthy, or the oath of the one baptized in adult age, is sufficient. (Canon 779.)

TITLE II.

Confirmation.

623. The Sacrament of Confirmation must be conferred by imposition of hands, with the anointing of the forehead with holy chrism and the words prescribed in the pontifical books approved by the Church. (Canon 780.)

624. The chrism to be used in the Sacrament of Confirmation must be blessed by the bishop, even when a priest, either by law or special indult, confers this Sacrament.

The anointing should not be done with any instrument, but with the hand of the bishop, properly imposed on the head of the one confirmed. (Canon 781.)

CHAPTER I.

The Minister of Confirmation.

625. The *ordinary* minister of Confirmation is the bishop only.

The *extraordinary* minister is a priest who either by common law or by special indult of the Holy See has received the faculty to confirm.

This faculty have by law the Cardinals, abbots and prelates *nullius,* vicars and prefects apostolic, who cannot validly make use of the faculty except within the limits of their territory, and for the time of their term of office only. In reference to Cardinals, Cf. No. 161, 23.

The priest of the Latin Rite who has this power by virtue of an indult can validly confer Confirmation on Catholics of his Rite only, unless the indult expressly allows more.

It is not lawful to priests of the Oriental Rite who have the faculty or the privilege to give Confirmation together with Baptism to the infants of their Rite, to confirm infants of the Latin Rite. (Canon 782.)

626. The bishop can within his diocese lawfully confirm also strangers, unless there is an explicit prohibition of their bishop to go outside the diocese for Confirmation.

In the diocese of another bishop, a bishop must have at least the presumed permission of the local Ordinary, except when he confirms his own subjects privately and without crozier and mitre. (Canon 783.)

627. The priest who has a local Apostolic privilege to confirm, may also confirm strangers in the territory of his jurisdiction, unless the Ordinaries of these strangers have explicitly forbidden their people to receive Confirmation outside the diocese. (Canon 784.)

628. The bishop is obliged to administer Confirmation to his subjects who lawfully and reasonably ask for it, especially at the time of his visitation of the diocese.

The same obligation rests with the priest who, by Apostolic privilege has the right to confirm in regard to those in whose favor this faculty was given him.

The Ordinary who is lawfully prevented, or who has no faculty to confirm, must see to it that at least every five years this Sacrament is administered among his subjects.

If he gravely neglects to administer this Sacrament, either himself or through another, the archbishop shall report the matter to the Holy See. (Canon 785.)

CHAPTER II.

The Subject of Confirmation.

629. He who is not baptized cannot validly be confirmed. In order that one may receive Confirmation licitly and with fruit, he must be in the state of grace, and, if he has the use of reason, he must be sufficiently instructed. (Canon 786.)

630. Although this Sacrament is not an absolutely neces-

sary means of salvation, no one is allowed to neglect to receive it when occasion offers. The pastors must see to it that the faithful receive Confirmation in proper time. (Canon 787.)

631. In the Latin Church Confirmation is usually deferred until about the seventh year of age. Nevertheless, it may be conferred before this, if the infant is in danger of death, or if the minister in any other case thinks it expedient for good and weighty reasons. (Canon 788.)

632. If there are several to be confirmed, they should be present at the first imposition or extension of hands, and they must not leave until the rite is completed. (Canon 789.)

CHAPTER III.

Time and Place of Confirmation.

633. This Sacrament can be administered any time; it is most befitting to administer it during the week of Pentecost. (Canon 790.)

634. The proper place for Confirmation is a church, nevertheless, if the minister has any just and reasonable cause he may confirm in any becoming place. (Canon 791.)

635. The bishop has the right to administer Confirmation within the limits of his diocese in any, even exempted places. (Canon 792.)

CHAPTER IV.

The Sponsors.

636. By a most ancient custom the Church requires a sponsor at Confirmation, if one can be had. (Canon 793.)

637. The sponsor should not stand for more than two, except the minister for a just reason allow him to stand for more. No candidate for Confirmation should have more than one sponsor. (Canon 794.)

638. In order that one may *validly* act as sponsor, he must:

1. be confirmed himself, have the use of reason and the intention to act as sponsor;

2. not belong to an heretical or schismatic sect, nor be under any of the penalties spoken of in Canon 765, n. 2, by a declaratory or condemnatory sentence;

3. not be the father, mother of, or married to, the one confirmed;

4. be designated by the one to be confirmed, or by his parents, guardians, or in their default or refusal to designate a sponsor, the minister or the pastor may designate him.

5. physically touch either in person or through a proxy the one confirmed in the very act of Confirmation. (Canon 795.)

639. The requirements for *licit* sponsorship are:

1. he should not be the sponsor of Baptism, unless there is a good reason which is left to the judgment of the minister of Confirmation, or unless Confirmation is given immediately after Baptism;

2. he should be of the same sex as the one confirmed, unless the minister allows an exception in particular cases and for good reasons;

3. he must have the other requisites mentioned for Baptism in Canon 766. (Canon 796.)

640. Spiritual relationship arises in valid Confirmation between the one confirmed and the sponsor, and the sponsor is held by his office to interest himself in the spiritual welfare of the one confirmed and care for his Christian education. (Canon 797.)

CHAPTER V.

Record and Proof of Confirmation.

641. In the Confirmation record there should be entered the names of the minister, parents, sponsors, and the date and place, besides making note of it in the baptismal record, as demanded in Canon 470, § 2.

642. If the proper pastor of the one confirmed was not present, the minister of Confirmation should either himself or through another send the report to the pastor. (Canon 799.)

643. For proof of the Confirmation, when no one else's right is at stake, it is sufficient to have one witness who is altogether trustworthy, or the sworn statement of the one confirmed, unless Confirmation was given in infancy. (Canon 800.)

TITLE III.

The Blessed Eucharist.

644. In the Blessed Eucharist Christ, the Lord, is Himself contained, offered, and received under the species of bread and wine. (Canon 801.)

CHAPTER I.

The Holy Sacrifice of the Mass.

Article I. The Celebrant.

645. Priests only have the power to offer the sacrifice of Holy Mass. (Canon 802.)

646. It is forbidden that several priests concelebrate, except in the Mass of ordination of priests, and in the Mass of consecration of bishops, according to the Pontificale Romanum. (Canon 803.)

647. A priest who wishes to celebrate in a church outside his own, must exhibit authentic and still valid letters of his Ordinary, if he is a secular; or if he is a religious, of his superior; or, if he belongs to an Oriental Rite, of the Sacred Congregation for the Oriental Church, in order that he may be admitted to say Holy Mass, unless it be known that in the meantime he has committed some act for which he should not be admitted to say Mass.

If he has no such letters, but his good character is known to the rector of the church, he may admit him; if, however, he is unknown to him, he may still be admitted once or twice, provided he wears priestly attire, does not get any remuneration under any title from the church in which he says Holy Mass, and signs his name, office and diocese in a book specially to be kept for that purpose.

The special regulations of the bishop concerning this matter, saving the rules of this Canon, must be observed by all, even exempt religious, unless there is question of admitting to celebration of Holy Mass religious priests in churches of their own Order. (Canon 804.)

648. Every priest is obliged to say Holy Mass several times a year. The bishop, or the religious superior, shall see to it that the priest celebrate at least on all Sundays and holidays of obligation. (Canon 805.)

649. The priest is not allowed to say Holy Mass more than once a day, except by papal indult or by permission of the local Ordinary. On Christmas and on All Souls' day permission is given to say three Holy Masses.

The Ordinary cannot grant the permission to binate unless on holidays of obligation a considerable part of the faithful

would have to miss Holy Mass on account of the scarcity of priests. It is not in his power, however, to allow a priest to say more than two Holy Masses in one day. (Canon 806.)

650. The priest who should find himself in mortal sin shall not dare to say Holy Mass without previous sacramental confession, no matter how contrite he may be over his sins. If he has no chance to go to confession and urgent need obliges him to celebrate, he shall make an act of perfect contrition before saying Holy Mass, and shall be obliged to confess as soon as possible. (Canon 807.) This regulation is the same as the Council of Trent had it.

651. The priest is not allowed to celebrate unless he has observed the natural fast from midnight. (Canon 808.)

652. The priest is free to apply Holy Mass for any living person, and also for the poor souls in purgatory, provided he observes the rules of Canon 2262, § 2, n. 2. This Canon allows Holy Mass to be privately applied, if scandal is avoided, for an excommunicated person, but when it is an *excommunicatus vitandus* Holy Mass can be said only for his conversion and not for any other intentions for which he may ask to have Holy Mass applied. (Canon 809.)

653. The priest should not omit to prepare his soul by pious prayer for the oblation of the eucharistic sacrifice, and upon its conclusion give thanks to God for such a great benefit. (Canon 810.)

654. The priest about to say Holy Mass should wear the cassock and the sacred vestments prescribed by the rubrics of his Rite.

He must not wear cap and ring, unless he be a Cardinal, bishop or an abbot who has received the abbatial blessing, or has received an Apostolic indult which allows him their use in the celebration of Holy Mass. (Canon 811.)

655. No priest, except the bishop and other prelates having the use of the pontificals, is allowed to have an assistant priest for the sole reason of honor and solemnity. (Canon 812.)

656. The priest should not say Holy Mass unless he has a server who serves and answers him.

The server at Mass should not be a woman, unless no man can be had, and provided the woman stays at a distance to an-

swer the prayers and does not in any way approach the altar. (Canon 813.)

Article II. The Rites and Ceremonies of Holy Mass.

657. The holy Sacrifice of the Mass must be offered up in bread and in wine which is to be mixed with a little water. (Canon 814.)

658. The bread must be purely of wheat flour and recently made, so that there is no danger of corruption.

The wine must be the natural juice of the grape vine and uncorrupted. (Canon 815.)

659. In the celebration of Holy Mass the priest must, according to his own Rite use either unleavened or fermented bread, wherever he celebrates. (Canon 816.)

660. It is forbidden, even in extreme cases of necessity, to consecrate one species without the other, or both outside of Holy Mass. (Canon 817.)

661. The celebrant must accurately and devoutly observe the rubrics of his liturgical books, and guard against adding other ceremonies and prayers of his own choice. All contrary custom is disapproved. (Canon 818.)

662. Holy Mass must be celebrated in the liturgical language proper to each one's Rite, as approved by the Church. (Canon 819.)

Article III. Time and Place of Holy Mass.

663. Holy Mass may be said on all days except those which are excluded by the priest's own Rite. (Canon 820.)

664. Holy Mass should not be commenced earlier than one hour before the aurora, nor later than one hour after midday.

On Christmas day only the conventual or parochial Mass can be begun at midnight, but no other Mass without an Apostolic indult.

In all religious or pious houses having an oratory with the right of keeping there habitually the Blessed Sacrament, one priest may at midnight say one or also three Masses, and this Holy Mass will for all who assist satisfy the obligation of hearing Mass, and Holy Communion may be given to those who wish to receive. (Canon 821.)

665. Holy Mass must be celebrated on a consecrated altar, and in a church or oratory consecrated or blessed according to law. Regarding private and semi-public oratories, Canon 1196 is to be observed.

The privilege of the *portable altar* is conceded either by law or by indult of no other than the Holy See.

This privilege is to be understood in such a sense, that it bestows the faculty to say Holy Mass anywhere in a decent and respectable place, and on a consecrated altar stone, not, however, on the ocean.

The local Ordinary, or when there is question of an exempt religious house, the major superior, can give permission for a just and reasonable cause to celebrate Holy Mass outside the church or oratory on a consecrated altar stone, in a decent place, but never in a bedroom. This permission can be given in an extraordinary case and only *per modum actus,* i. e. not perpetually. (Canon 822.)

666. Holy Mass may not be said in churches of heretics and schismatics, even though they were in ancient times properly consecrated or blessed.

If there is no altar of the priest's own Rite, he may celebrate on an altar consecrated by another Catholic Rite, following his own Rite in the celebration of Holy Mass. He may not celebrate with the Greek *antimensia,* a kind of corporal in which relics are deposited.

On papal altars no one is allowed to celebrate without an Apostolic indult. (Canon 823.)

Article IV. The Alms or Stipends of Masses.

667. According to an established and approved custom of the Church, any priest who says and applies Holy Mass may receive an alms or stipend.

Whenever he says Holy Mass several times a day, and has to apply one Mass from a title of justice, he cannot receive another stipend, excepting some compensation from an extrinsic title. On Christmas, however, he may receive a stipend also for the second and third Mass. (Canon 824.)

668. It is never lawful:

1. to apply Holy Mass for the intention of one who may offer a stipend in the future, but who has not yet asked for the

Mass, and then to accept the stipend afterwards given for the Mass said before;

2. to accept a stipend for a Mass that was due and applied from another title;

3. to receive two stipends for the application of one Mass;

4. to receive one stipend for only the celebration, and another for the application of one and the same Mass, unless it is certain that one stipend was offered for the celebration without the application. (Canon 825.)

669. *Manual* stipends are called those which the faithful offer out of their own devotion, or from some obligation, even a perpetual one imposed on heirs by the testator.

Ad instar manualium, are called the stipends of foundation Masses which cannot be applied in the proper church, or not by those who, according to the laws of those foundation Masses, should say them, and which may either by law or by papal indult be given to other priests to say.

Other stipends, received from a fund set apart for foundation Masses, are called *stipendia fundata, or, Missae fundatae.* (Canon 826.)

670. Any kind of negotiation or trading with Mass stipends must absolutely be avoided. (Canon 827.)

671. So many Masses must be said and applied as Mass stipends, even small ones, were offered and accepted. (Canon 828.)

672. Though the Mass stipends should have been lost without the fault of the one who has the responsibility to say the Masses, the obligation does not cease. (Canon 829.)

673. If a person has offered a certain sum of money for Holy Masses to be said, without indicating how many Masses he desires, the number must be reckoned according to the ordinary stipends customary in the place where the giver of them lived, unless circumstances are such that it must be lawfully presumed that his intention was different. (Canon 830.)

674. It is the right of the local Ordinary to fix the amount of the stipend, which should, as far as possible, be done in the diocesan synod; the priest may not demand a larger stipend than has been fixed by the law of the bishop.

Where there is no law of the bishop fixing the stipend, the custom of the diocese should be followed.

All religious, also the exempt ones, are obliged to observe the law of the bishop, or the custom of the diocese, concerning Mass stipends. (Canon 831.)

675. The priest may accept a larger stipend, if voluntarily offered; and, unless the Ordinary has forbidden it, he may accept a smaller one. (Canon 832.)

676. It is presumed that the one who offers the stipend only requests the application of Holy Mass; if, however, he has explicitly stipulated certain circumstances for its celebration, the priest who accepts the stipend must fulfill the conditions made by the one who offered the stipend. (Canon 833.)

677. Concerning the *time* when Holy Mass is to be said, the following rules must be observed:

1. if the day was specified by the giver of the stipend, Holy Mass must absolutely be said that day;

2. if the giver of manual stipends did not expressly specify the day, then (1) Masses ordered for an urgent cause must be said as soon as possible, and within the time proper to obtain the purpose, e. g., a Mass said for a successful examination, which naturally has to be said before the examination takes place; (2) in all other cases Holy Mass must be said within a short time, a longer or shorter period, according to the number of Masses;

3. if the giver of the stipend expressly left the time for saying the Holy Masses to the judgment of the priest, he may say them at a time that he finds more convenient. The rule of the following Canon, however, must be observed. (Canon 834.)

678. No one is allowed to receive more Masses than he himself can say within a year. (Canon 835.)

679. In churches where, on account of the special devotion of the faithful, stipends for Masses are offered in such a number that it is impossible to say all of them in that church within the required time, the faithful should be notified by notices posted in a conspicuous place that the Holy Masses will be said either in that church when possible, or in other places. (Canon 836.)

680. He who has Masses which are to be said by others, should distribute them as soon as possible, observing Canon 841. The time prescribed by law for their application begins on the

day on which the priest received them, unless the contrary is certain from other reasons. (Canon 837.)

681. He who has a number of Masses which he is allowed to give to others, may distribute them among priests of his choice, provided he knows they are absolutely trustworthy or are recommended by the testimony of their Ordinary. (Canon 838.)

682. He who has given to other priests Masses which he received from the faithful, or which are in any way entrusted to him, is held to their obligation until he received notice that the stipends were received by the priest, and that he has accepted to say the Masses. (Canon 839.)

683. He who transmits manual stipends to others must send away the stipends as he received them, and cannot retain part of larger stipends, unless the giver expressly permits this, or it is certain that what was offered above the usual stipend was given *intuitu personae,* that is to say, for special personal reasons.

In Masses *ad instar manualium* (cf. Canon 826), unless the intention of the founder is otherwise, the excess of the ordinary stipend may be retained, *if the larger stipend takes the place of a partial endowment of the benefice or pious institution,* and it is sufficient to send the manual stipend customary in the place where the Masses are to be said. (Canon 840.)

684. Each and every administrator of pious institutions, or any one else who is obliged to attend to the saying of Holy Masses for stipends, whether clerics or laymen, must at the end of each year send to their Ordinaries those stipends for which they have not yet satisfied, according to the manner to be specified by the Ordinary.

This time is to be understood in such way that for stipends *ad instar manualium* the obligation of sending them to the bishop begins with the end of the year during which they should have been said; for manual stipends, one year from the day on which they were received, saving the different will of the givers. (Canon 841.)

685. The right and duty to see that the obligation of the Mass stipends is attended to in secular churches belongs to the Ordinary; in churches of the religious, to their superiors. (Canon 842.)

686. The rectors of churches and other pious places, both secular and religious, in which stipends for Masses are usually received, must have a special book in which they should accurately mark down the number, intention, amount of stipend, and the celebration of the Masses they receive.

The Ordinaries are obliged to inspect these books at least once a year, either in person or through some one else. (Canon 843.)

687. The Ordinaries of dioceses, and religious superiors, who give Masses to their subjects or to others to say, shall mark down at once the Masses with the alms they receive, in the order in which they get them, and attend to it that as far as possible they are said soon.

Every priest, whether secular or religious, must mark down accurately the Mass intentions which they receive, and whether and when they have satisfied them. (Canon 844.)

CHAPTER II.

The Blessed Sacrament.

Article I. The Minister of Holy Communion.

688. The priest alone is the *ordinary* minister of Holy Communion. The deacon is the *extraordinary* minister, who must have the permission of the Ordinary or of the pastor, which can be given for a grave reason and can be lawfully presumed in case of necessity. (Canon 845.)

689. Every priest may distribute holy Communion in the Mass, and, if he celebrates privately, also immediately before or after Mass.

Outside Holy Mass any priest may administer holy Communion, and if he does not belong to that church he should have at least the presumed permission of the rector of the church. (Canon 846.)

690. Holy Communion should be brought to the sick publicly, unless good reasons make the private ministration advisable. (Canon 847.)

691. The right and duty to carry holy Communion publicly to the sick within the parish, even to non-parishioners, belongs to the pastor.

Other priests may do so only in case of necessity, and with

at least the presumed permission of the pastor or Ordinary. (Canon 848.)

692. Any priest may privately bring holy Communion to the sick with at least the presumed permission of the priest to whom the custody of the Blessed Sacrament is entrusted.

When holy Communion is administered privately to the sick, the reverence and respect due to such a Sacrament should zealously be safeguarded, by observance of the regulations laid down by the Holy See. (Canon 849.)

693. The administration of the holy Viaticum, whether public or private, belongs to the pastor, according to Canon 848. The exceptions to this Canon are stated in Canons 397, n. 3 and 514, §§ 1—3. (Canon 850.)

694. The priest shall give holy Communion either in fermented or unfermented bread, according to the rules of his Rite.

In case of urgent necessity, when there is no priest of another Rite to be had, the priest of the Oriental Rite, who uses fermented bread, may give holy Communion in unfermented bread, and *vice versa*. Each one shall observe the ceremonies proper to his own Rite. (Canon 851.)

695. Holy Communion is to be given only under the species of bread. (Canon 852.)

Article II. The Recipient of Holy Communion.

696. Every baptized person not barred by law can and must be admitted to holy Communion. (Canon 853.)

697. Children who, on account of their age, have not yet the knowledge and desire for this Sacrament should not be given holy Communion.

In case of danger of death holy Communion may be given to young children, if they know to distinguish the holy Eucharist from ordinary bread, and reverently adore it.

Outside the case of danger of death a deeper knowledge of Christian doctrine, and a more accurate preparation is justly demanded, to an extent that they know at least the mysteries of faith necessary as absolute means of salvation, and that they do approach holy Communion with such devotion as can be expected from young children.

The judgment of the sufficient disposition of children for

first holy Communion shall rest with the confessor of the children and their parents, or those who take the place of the parents.

The pastor has the duty to watch that the children do not approach holy Communion before they have come to the use of reason, and without sufficient knowledge, wherefore he has the right to examine the children. It is the pastor's duty to see to it that the children who have attained the years of discretion and have sufficient instruction are as soon as possible strengthened by this Divine food. (Canon 854.)

698. Notoriously unworthy Catholics, such as those excommunicated, interdicted, and of public bad repute, must not be admitted to holy Communion until after their repentance and amendment is known, and satisfaction has been made for public scandal.

Occult sinners who secretly ask for holy Communion should be refused by the priest if he knows that they have not amended; if, however, they ask publicly and the priest cannot pass them over without scandal, he may give them holy Communion. (Canon 855.)

699. No one who is conscious of mortal sin shall go to holy Communion before making a sacramental confession, no matter how contrite he may be. If necessity urges the reception of holy Communion, and there is no opportunity to go to confession, an act of perfect contrition should first be made. (Canon 856.)

700. No one is allowed to receive holy Communion a second time on the same day, except in the cases mentioned in Canon 858, § 1. (Canon 857.) Cf. Canon 864, § 2.

701. Those who have not kept the natural fast from midnight are not allowed to receive, except in danger of death, or in case it should become necessary to consume the Blessed Sacrament to safeguard it against irreverence.

The sick who have been laid up for a month without certain hope of speedy recovery, may, with the advice of the confessor, receive holy Communion once or twice a week though they have taken medicine or some liquid food. (Canon 858.)

The reader will notice that the Code extends the original concessions in favor of sick people. The decree of the S. Congregation of the Council, Dec. 7, 1906, distinguished between

patients lying ill in a hospital or other place where the Blessed Sacrament was kept, and allowed them to receive once or twice a week under the same conditions as mentioned in this Canon, while patients in other places could receive only once or twice a month without observing the eucharistic fast.

702. Each and every Catholic of either sex must, after having attained the years of discretion, receive holy Communion once a year at least in the Easter season, unless at the direction of his priest he believes it proper to abstain for some time.

The Easter Communion is to be received between Palm-Sunday and Low Sunday; the local Ordinaries have the right to extend this period for all the faithful of the diocese, if they think this necessary on account of the condition of people and place, from the fourth Sunday in Lent to Trinity Sunday, but no further.

The faithful are to be advised to satisfy their Easter duty in their own parish church, and those who received in another church should take care to inform their pastor of the fulfilment of their Easter duty.

If for any reason one has not made his Easter duty within the prescribed time he is still bound by that precept. (Canon 859.)

703. The obligation of the Easter duty for children below the age of puberty rests principally on those who have the responsibility for the children, namely, parents, guardians, confessor, teachers, and the pastor. (Canon 860.)

704. The precept of receiving holy Communion is not satisfied by a sacrilegious Communion. (Canon 861.)

705. It is proper that priests who do not celebrate on Holy Thursday receive holy Communion in the solemn, or conventual, Mass on that day. (Canon 862.)

706. The faithful should be admonished according to the decrees of the Holy See to receive the eucharistic bread frequently, and even daily, and that those who assist at Holy Mass should not only communicate spiritually, but be prepared to receive in reality our Lord in the holy Eucharist. (Canon 863.)

707. In danger of death, no matter from what cause the danger arises, the faithful are bound to the precept of receiving holy Communion.

Though they have received holy Communion the same day they are to be strongly advised to receive again if in the course of the day they should come into danger of death.

During the danger of death the holy Viaticum may, according to the judgment of the confessor, be administered repeatedly for several days. (Canon 864.)

708. The holy Viaticum for the sick should not be deferred too long, and those who have the care of souls should see to it that sick people receive it while as yet fully conscious. (Canon 865.)

709. All the faithful of any Rite are given permission for devotion's sake to receive the Blessed Sacrament consecrated in any Rite.

They are to be advised, however, that each one receive the Easter Communion in his own Rite.

The holy Viaticum must be received in one's own Rite, but in urgent necessity it is lawful to receive it in any Rite. (Canon 866.)

Article III. Time and Place for the Distribution of Holy Communion.

710. Holy Communion may be distributed every day.

On Good Friday, however, it may be given only in the form of the holy Viaticum to the sick.

On Holy Saturday holy Communion cannot be given to the people except in the Mass of the day, or immediately after the Mass is finished.

Holy Communion is to be given only during those hours of the day when the celebration of Holy Mass is allowed, unless there is good reason to give it at other times of the day.

The holy Viaticum may be given any hour of the day or night. (Canon 867.)

711. The priest who says Holy Mass is not allowed to give holy Communion during the Mass to people who are so far away from the altar that the priest has to go out of sight of the altar. (Canon 868.)

712. Holy Communion may be given wherever Holy Mass is allowed to be said, even in a private oratory, unless the bishop of the diocese should for good reasons have forbidden it in some particular case. (Canon 869.)

TITLE IV.

The Sacrament of Penance.

713. In the Sacrament of Penance the faithful who are properly disposed receive pardon of the sins they have committed after Baptism, by the judicial absolution of a legitimately appointed priest. (Canon 870.)

CHAPTER I.

The Minister of the Sacrament of Penance.

714. A priest only is the minister of this Sacrament. (Canon 871.)

715. Besides the power of orders, there is the power of jurisdiction, either ordinary or delegated, necessarily required in the minister for valid absolution from sins. (Canon 872.)

716. Ordinary jurisdiction for the hearing of confessions in the whole Church have, besides the Roman Pontiff, also the Cardinals; and, in their respective territory, the local Ordinaries, the pastor, and others who take the place of pastors.

Ordinary jurisdiction have also the Canon Penitentiary of a collegiate church, according to Canon 401, § 1, and the superiors of exempt religious for their subjects, according to their constitutions.

This jurisdiction ceases with the loss of office, according to Canon 184, and by incurring excommunication, suspension from office, and interdict after a declaratory or condemnatory sentence of the ecclesiastical judge. (Canon 873.)

717. Delegated jurisdiction to hear the confession, both of seculars and of religious, is given to secular priests as well as to exempt and non-exempt religious by the Ordinary of the place where the confessions are to be heard. The religious, however, should not make use of this faculty without at least the presumed permission of their superiors. The rule of Canon 519, however, shall stand.

The Ordinaries of dioceses should not give to the religious habitual faculties to hear confessions unless they have been presented by their own superiors; and to those presented by their own superiors they should not deny this faculty without a serious reason. Canon 877 is, however, to be observed. (Canon 874.)

718. In clerical exempt Religious Orders and congregations the proper superior, according to the constitutions, can give delegated jurisdiction to hear the confessions of the professed, the novices and of those who board in the religious house, mentioned in Canon 514, § 1; this jurisdiction he may give also to secular priests and priests of another Order or congregation.

In laical exempt Orders the superior proposes the confessor who, however, must obtain jurisdiction from the Ordinary of the diocese where the religious house is situated. (Canon 875.)

719. Revoking all contrary particular laws or privileges, all secular and religious priests need special jurisdiction to validly and licitly hear the confessions of any religious women, even of novices. Exceptions to this rule are contained in Canons 239, § 1, n. 1, 522 and 523, which Canons refer to the faculties the Cardinals have to hear confessions of seculars and religious anywhere; the other Canons refer to the confessions of religious made in any church, public or semi-public oratory, where any approved priest can hear religious women, and to cases of serious illness when the sick sister may call any approved priest to hear her confession. Outside these cases therefore no priest can hear the confession of sisters *in their convents* without being specially approved for the sisters.

This faculty is to be given by the Ordinary of the diocese where the house of the sisters is situated, according to Canon 525. (Canon 876.)

720. Both, the bishop and the religious superior, should not grant faculties to hear confessions except to those who by examination have been found capable, unless there is question of priests whose theological learning is plainly known from other sources.

If, after the faculty has been granted, serious doubt arises as to whether the priest who was approved continues to be capable, those who approved him may recall him for examination, even though there is question of a pastor or a canon penitentiary. (Canon 877.)

721. Delegated jurisdiction or permission to hear confessions can be given with certain restrictions.

The bishop and religious superiors should, however, not limit the jurisdiction or permission too much without a reasonable cause. (Canon 878.)

722. Jurisdiction must be given either in writing or ex-

pressed in words in order to be valid for the hearing of confessions.

No compensation can be demanded for the granting of jurisdiction. (Canon 879.)

723. The bishop and the religious superior should not revoke or suspend the jurisdiction or permission to hear confessions except for a serious reason.

For grave reasons the bishop may deprive of the faculties to hear confessions even pastors and penitentiaries, who may, however, take recourse to the Holy See, but must in the meantime abide by the orders of the bishop.

The bishop is not allowed without consulting the Holy See to deprive all the confessors of a religious community at one and the same time of their faculties, if there is question of so-called formed houses. (Canon 880.)

724. All priests, seculars as well as religious, approved for confessions in some diocese, either with ordinary or delegated jurisdiction, can also hear and absolve those who have no domicile, called *vagi,* and those who belong to another diocese or parish, and Catholics of any Oriental Rite.

Those who have ordinary jurisdiction can absolve their subjects anywhere in the world. (Canon 881.)

725. In danger of death any priest, though he be not approved for confessions, may validly and licitly absolve all penitents from all sins and censures, no matter in what manner they are reserved and how public their censure is, though there be present an approved priest. There are two modifications to this rule, one contained in Canon 884, which will be seen there, and the other in Canon 2252, which orders that when the priest absolves a penitent in danger of death from a censure *specialissimo modo* reserved to the Holy See or from a censure inflicted by the Holy See or an Ordinary by special sentence on the guilty person, recourse must be had to the Holy See in the one case, and to the authority that inflicted the censure in the other, for the imposition of a penance, if the sick person gets well. (Canon 882.)

726. All priests who make an ocean trip can hear confessions on board during the time of the voyage and absolve the faithful who travel with them, though the boat may pass through the diocese of other bishops or stay for a while in some

port, provided they have been approved for confessions either by the bishop of their own diocese, or by the bishop of the port where they take ship, or by the Ordinary of any of the ports at which the boat calls.

Whenever the boat stops at some port during the trip they may hear and absolve not only the people who for any reason come on board ship, but, if the priest goes ashore for a while, also those people who request him to hear their confession, in which case he may absolve also from sins reserved by the bishop of that place. (Canon 883.)

727. The absolution of the priest's own accomplice in a sin of impurity is invalid except when that person is in danger of death. The priest absolves illicitly even in danger of death unless another priest cannot be had, or the calling of another under the circumstances would implicitly reveal the sin of the priest and of the sick person; the apostolic Constitutions, and especially that of Pope Benedict XIV: *Sacramentum Poenitentiae,* thus declare. (Canon 884.)

728. Though the prayers attached by the Church to the formula of absolution are not necessary for the validity of the absolution, nevertheless they should not be omitted except for good reasons. (Canon 885.)

729. If the confessor cannot call in doubt the proper disposition of a penitent who asks for absolution, the priest must neither deny nor defer absolution. (Canon 886.)

730. The confessor should impose a salutary penance in proportion to the number and gravity of the sins, and accommodated to the condition of penitents, which penance they must accept with a willing heart and perform personally. (Canon 887.)

731. The priest should remember that in the hearing of confessions he is to act the part of both judge and physician, and that he is appointed by God a minister of both Divine justice and mercy, so as to safeguard the honor of God and provide for the welfare of souls.

The priest must absolutely guard against inquiring about the name of an accomplice in sins confessed, and against detaining penitents with useless and too inquisitive questions, especially concerning the Sixth Commandment, lest he may by imprudent questions teach the youth what they should not know. (Canon 888.)

732. The sacramental seal is inviolable, wherefore the confessor must carefully watch himself not to betray the sinner by words or signs, or in any other way, for any reason whatsoever.

The obligation of keeping the sacramental seal rests also with the interpreter, and with all other persons to whom knowledge of the confession has come in any way. (Canon 889.)

733. The confessor is absolutely forbidden to use the knowledge derived from confession in any manner disagreeable to the penitent, even though there be no danger of revelation.

The actual superior, as well as the confessor who is made superior afterwards, cannot use the knowledge they have gained from confessions for the purpose of the external government in any way. (Canon 890.)

734. The master of novices and his associate, and the superior of a seminary or college, shall not hear the confessions of the pupils in their charge, except in particular cases where the novice or student for grave and urgent reasons should of his own accord ask them to hear his confession. (Canon 891.)

735. Pastors and others to whom the care of souls is entrusted by virtue of their office, are held under grave obligation of justice to hear, either in person or through others, the confessions of the faithful in their charge whenever they reasonably ask to be heard.

In case of urgent necessity all confessors are by the duty of charity obliged to hear the confessions of the faithful, and in danger of death any priest, though he is not approved or is under censure. (Canon 892.)

CHAPTER II.

Reservation of Sins.

736. Those who have the ordinary power of giving to others faculties to hear confessions or to inflict censures, can also reserve some cases to their own tribunal and thus limit the power of absolution given to their priests. Though the vicar capitular and the vicar general have ordinary power to approve others for confession, the vicar capitular (with us the administrator of the diocese) cannot reserve cases, and the vicar general only by special mandate from the bishop.

This restriction of jurisdiction is called the *reservation* of cases.

In reference to the reservation of censures the rules of Canons 2246-2247 are to be followed. (Canon 893.)

737. Among the papal reserved censures there is only one case reserved after the manner of reserved sins, namely the false accusation before ecclesiastical judges of an innocent priest, charging him with the crime of solicitation in confession. (Canon 894.) The Code, in Canon 2363, punishes this sin with excommunication reserved to the Holy See *speciali modo,* which censure is new. Papal censures as a rule are reserved in such a manner that the censure is the primary object of the reservation, so that a case ceases to be reserved if the censure was not incurred, be it through ignorance of the penalty or through any other excuse from the censure admitted in law. The case of Canon 894 is an exception from the general rule, and as the Canon states, the only exception in papal cases.

738. The Ordinaries of dioceses should not reserve sins until after a thorough discussion in the diocesan synod, or outside the synod with the cathedral Chapter or the diocesan consultors and other experienced and prudent confessors, so as to make sure that the reservation will be really necessary, or at least useful. (Canon 895.)

739. The Superior General, and the abbot of an independent monastery, with their respective council are the only superiors of religious who can reserve sins of their subjects. (Canon 896.) Canon 518, § 1, demands that in each house several confessors are to be appointed to whom the faculty to absolve from sins reserved in the Orders must be granted; Canon 519 rules that a priest approved by the bishop of the diocese to whom a religious comes to confession may absolve him from all sins even from those reserved in the Order. Former concessions granting to exempt religious the right to make their confession to a priest not approved by the superior for the confessions of their subjects, had various restrictive clauses, for instance that only when they were for an entire day away from the house, or that for a whole day there was no other priest of the Order at home, etc. The present law does not place any such restrictions and revokes all contrary privileges. In the matter of confession the privilege of exemption has therefore been considerably diminished for all exempt religious, but it has been done in the best interests of liberty in affairs of conscience.

740. The reserved cases should be few in number, namely three or at most four, and they should embrace the more grievous and hideous external crimes specifically stated. The reservation should not remain in force longer than necessary for the extirpation of some inveterate public crime, or for the restoration of weakened Christian discipline. (Canon 897.)

741. The inferior authorities shall abstain from reserving to themselves sins which are by reason of the censure attached to the sin already reserved to the Holy See. They shall also as a rule refrain from reserving sins to which the law has already attached a censure that is not reserved. (Canon 898.) The Code, therefore, does not wish the Ordinaries to make those sins which are punished with a censure by the laws of the Code diocesan reserved sins, in case the papal censure was not contracted by the guilty person through ignorance of the censure or other excuses admitted in law.

742. The Ordinaries of dioceses should see to it that once they have reserved some cases as seemed to them necessary or useful, these reservations come to the knowledge of the people and they should not grant faculty too freely to absolve from the reserved cases.

The faculty to absolve from the bishop's reserved cases is granted by law to the Canon Penitentiary of cathedral and collegiate churches, and should be given habitually to the deans, with the power to subdelegate priests of their district for individual cases, especially in towns and districts far away from the episcopal city.

By law the pastors, and others who come under the name of pastors in the Code, have the faculty to absolve from the bishop's reserved cases, no matter in what manner they are reserved, during the time in which the Easter duty can be fulfilled, and the missionaries for the time of missions given to the people. (Canon 899.)

743. Any reservation ceases:

1. if the sick who cannot leave the house make their confession, and when those about to be married confess;

2. whenever the legitimate superior has refused the faculty to absolve asked in an individual case, and also in cases where the confessor judges that the faculty to absolve cannot be asked from the proper superior without great inconvenience to the peni-

tent, or without danger of violating the sacramental seal. In ordinary cases, when the penitent cannot conveniently wait for absolution, he may be indirectly absolved from the bishop's reserved case and faculty obtained afterwards to absolve directly;

3. if the penitent who has fallen into a case reserved to the bishop goes outside the diocese, even for no other purpose than to get absolution, he can be absolved by any priest. If, however, the same case should perchance be reserved also in that other diocese the priest cannot absolve the penitent because his jurisdiction over that sin is taken away from him. (Canon 900.)

CHAPTER III.

The Subject of the Sacrament of Penance.

744. Any person who has committed mortal sins after Baptism, for which he has not yet received direct pardon through the power of the keys, is bound to confess all mortal sins which after a diligent examination of conscience he finds himself guilty of, together with the circumstances which may change the species of sins. (Canon 901.)

745. Mortal sins committed after Baptism, and already directly remitted by the power of the keys, or venial sins, are sufficient but not necessary matter for the Sacrament of Penance. (Canon 902.)

746. Those who cannot make themselves understood any other way are not forbidden to confess through an interpreter if they wish to do so, and the interpreter is, as Canon 889, § 2, states, held to the seal of confession in the same manner as the priest. (Canon 903.)

747. According to the Apostolic constitutions, and especially according to the Constitution of Pope Benedict XIV, *Sacramentum Poenitentiae,* of June 1, 1741, the penitent has the duty to denounce to the Ordinary or the Sacred Congregation of the Holy Office within one month the priest who is guilty of solicitation in confession; the confessor has the duty, under pain of mortal sin, to remind the penitent of this obligation. (Canon 904.)

748. All the faithful may, if they prefer, make their confession to a lawfully approved priest of any other Catholic Rite. (Canon 905.)

749. Each and every one of the faithful of either sex have the obligation, from the time they attain the use of reason, to confess all their sins truthfully at least once a year, that is to say, all their *mortal sins* which have not yet been properly confessed and directly remitted by absolution. (Canon 906.)

750. He who makes a sacrilegious, or intentionally invalid confession does not satisfy the precept of confessing his sins. (Canon 907.)

CHAPTER IV.

The Place where Confessions are heard.

751. The proper place for sacramental confession is the church, or a public or semi-public oratory. (Canon 908.)

752. The confessional for hearing the confessions of women shall always be placed in an open and conspicuous place, and as a rule in a church or public or semi-public oratory appointed for women.

The confessional must be so constructed that between the penitent and the confessor there is an irremovable grate with small holes. (Canon 909.)

753. The confessions of women are not to be heard outside the confessional, except in case of illness or any other real necessity, and under the precautions prescribed by the bishop of the diocese.

The confessions of men may be heard also in private houses. (Canon 910.)

CHAPTER V.

Indulgences.

Article I. Concession of Indulgences.

754. All the faithful should hold in great reverence the indulgences which the ecclesiastical authority grants from the treasury of the Church. Indulgences given to the living are granted in the form of absolution from temporal punishment due for sins already pardoned as to their guilt, and if granted to be gained for the faithful departed they are applied in the form of suffrage, because the Church has no longer jurisdiction over the faithful once they have passed this life. (Canon 911.)

755. To the Roman Pontiff is committed by Christ the entire spiritual treasury of the Church, wherefore only the Pope

and those to whom he has given participation in the power by law, have the ordinary power to grant indulgences. (Canon 912.)

756. Those inferior to the Roman Pontiff cannot:

1. give to others the faculty to grant indulgences, unless the Holy See has expressly given them this indult;

2. concede indulgences that are applicable to the poor souls;

3. attach an indulgence to the same object, or the same pious work, or to a sodality to which the Holy See or another authority has already granted an indulgence, unless additional conditions are prescribed for gaining the indulgence. (Canon 913.)

757. The Papal Benediction with a plenary indulgence may be given in the prescribed form of the Ritual by the bishop in his own diocese twice a year, namely on Easter Sunday and on another solemn feast to be designated by him, though he only assist at the solemn Mass; abbots and prelates *nullius,* vicars and prefects apostolic, though they are not consecrated bishops, may in their territory give the Papal Benediction on one of the more solemn feasts of the year. (Canon 914.)

758. Regulars who have the privilege to give the Papal Benediction are not only obliged to observe the prescribed form, but cannot make use of their privilege except in their own churches and in the churches of the nuns and of tertiaries legitimately aggregated to their Order. They are not allowed to give it on the same day in the same place where the bishop imparts the Papal Benediction. (Canon 915.)

759. The bishops, abbots, prelates *nullius,* vicars and prefects apostolic, and the major superiors of clerical exempt religious, can designate and declare one altar privileged daily and forever (provided there is no other altar in the church that has already the same privilege) in their cathedral, abbatial, collegiate, conventual, parochial and quasi-parochial churches, not, however, in public or semi-public oratories unless they are united to the parish church, or subsidiary to it. (Canon 916.)

760. On All Souls' Day all Masses have the same privilege as though they were celebrated at a privileged altar.

All altars of a church are privileged on days on which the Forty Hours' Devotion is held. (Canon 917.)

761. In order to indicate that the altar is privileged noth-

ing else should be inscribed except "privileged altar," with the addition of "perpetual," or "temporary," "daily," or otherwise, according to the wording of the indult.

For Masses to be said at the privileged altar no larger stipend can be demanded by reason of the privilege. (Canon 918.)

762. New indulgences, also those granted to churches of regulars, must not be published without first consulting the bishop of the diocese. If, however, the indulgence has been published at Rome, for instance, by publishing the indult in the *Acta Apostolicae Sedis,* they need not be submitted to the Ordinary.

In the publication of books, pamphlets, etc., containing a list of indulgences granted to various prayers and pious works, Canon 1388 is to be observed, which demands the approval of the bishop and in certain instances that of the Holy See. (Canon 919.)

763. The person who obtained from the Roman Pontiff a concession of indulgences for all the faithful, is obliged, under pain of nullity of the concession, to place before the Sacred Penitentiary an authentic copy of the concession. (Canon 920.)

764. Plenary indulgences conceded for the feasts of our Lord and of the Blessed Virgin, are to be understood for those feasts only that are found in the universal calendar of the Church.

A plenary or a partial indulgence conceded for the feasts of Apostles can be gained only on their *dies natalis.*

A plenary indulgence granted, either daily and perpetually or for some time, to those who visit a church or public oratory is to be understood in such way that it can be gained any day but only once a year by any of the faithful, unless the indult expressly makes other provisions. (Canon 921.)

765. The indulgences annexed to feasts, or to sacred supplications and prayers in the form of novenas, or held for a week or three days either before or after the feast or during the octave, are to be considered transferred to that day to which the feast is legitimately transferred, if the transferred feast has an office and Holy Mass without solemnity and external celebration, and the transfer is made perpetual or if either for a time or forever the external celebration of the solemnity is transferred. (Canon 922.)

766. In order to gain an indulgence affixed to a certain day,

for which the visit of some church or oratory is required, the visit can be made from noon of the preceding day until midnight of the day appointed for the indulgence. (Canon 923.)

767. In accordance with the rule of Canon 75, the indulgences attached to some church do not cease if the church should be totally destroyed but rebuilt within fifty years in about the same location and under the same title.

Indulgences attached to prayer beads, and other religious objects, cease then only when the beads or other blessed articles cease to exist, or are sold. (Canon 924.)

Article II. Manner of Gaining Indulgences.

768. In order that one may gain for himself any indulgence he must be baptized, free from excommunication, in the state of grace at least at the end of the pious works prescribed, and a subject of the authority granting the indulgence.

If a subject capable of gaining indulgences is to actually acquire them, he must have at least the general intention to gain them, and fulfil the prescribed good works at the stated time and in the manner required by the wording of the indult. (Canon 925.)

769. The plenary indulgence is to be considered granted in such manner that, if one cannot gain it for oneself as a plenary indulgence, he may gain it partially according to the disposition in which his soul is. (Canon 926.)

770. Unless the concession reads otherwise, the indulgences granted by the bishop can be gained by his subjects also outside the territory of the diocese, and likewise by transients and *vagi,* and by all exempt persons actually living in the diocese. (Canon 927.)

771. A plenary indulgence can be gained once a day only, though the prescribed work be performed repeatedly on the same day, unless the indult expressly allows the repeated gaining of the indulgence.

Partial indulgences, on the contrary, may be gained repeatedly on the same day by repetition of the prescribed good work, unless the indult explicitly makes a restriction. (Canon 928.)

772. The faithful of either sex who, either for the sake of religious perfection, or study and education, or for the sake of health, lead a community life in houses established with the con-

sent of the Ordinary of the diocese, and all other persons living there to do service, can gain indulgences for which the visit of some church or public oratory in general is required by visiting the chapel in the house, where they can by law satisfy their obligation of hearing Mass on Sundays and holidays of obligation, provided there is no public church or oratory attached to the institution, and that they fulfil the other good works prescribed for the gaining of the indulgence. (Canon 929.)

773. No person gaining an indulgence can apply it to other living persons; to the poor souls in purgatory all indulgences conceded by the Roman Pontiff may be applied, unless the contrary is stated in the indult. (Canon 930.)

774. The confession which may be demanded for any of the indulgences, can be made within eight days immediately preceding the day to which the indulgence is attached; holy Communion may be received the day previous, and both, confession and Communion, can also be made during the octave of the feast.

To gain the indulgences granted for triduums, or exercises for a week, etc., the confession and Communion can be made within eight days immediately following the conclusion of the exercises.

The faithful who are in the habit to confess at least twice a month unless legitimately impeded, or who receive holy Communion daily in the state of grace and with a good and holy intention, though they may abstain from receiving once or twice a week, can gain all indulgences without actual confession for which otherwise confession would be a necessary condition. The indulgences of an ordinary or extraordinary jubilee, and those granted in the form of a jubilee, are excepted from this concession. (Canon 931.)

775. By good works to which one is held by law or precept the indulgence cannot be gained, unless in the concession of the indulgence the contrary is expressly conceded; good works imposed as penance in sacramental confession, however, which may perchance be enriched with indulgences, serve both for satisfaction of the penance and for the gaining of the indulgence. (Canon 932.)

776. To one and the same object or place various indulgences from different titles can be annexed, but by one and the same good work to which by different titles various indulgences

are annexed one cannot gain all these various indulgences, unless the good work prescribed is confession and holy Communion, or the indult granting the indulgence expressly states the contrary. (Canon 933.)

777. If for the gaining of an indulgence prayer in general for the intentions of the Holy Father is prescribed, purely mental prayer is not sufficient; the vocal prayer may be chosen by the faithful, unless particular prayers are assigned.

If a particular prayer is assigned, the indulgences can be gained by reciting the prayer in any language, provided there is certainty as to the exactness of the translation either by declaration of the Sacred Penitentiary or by the bishop of the diocese where the language, into which the prayer has been translated, is commonly used. The indulgences, however, cease by any addition, diminution or interpolation.

For the gaining of the indulgence it suffices to say the prayers alternately with others, or to follow them mentally while they are recited by another. (Canon 934.)

778. The confessors can commute the good works demanded for the gaining of indulgences for people who on account of some legitimate impediment cannot perform these works. (Canon 935.)

779. Mutes can gain the indulgences attached to the recitation of public prayers by assisting with the faithful at the services and raising their hearts and minds to God. If there is question of private prayers it is sufficient that they say them mentally, or by signs, or by perusing them with their eyes. (Canon 936.)

TITLE V.

Extreme Unction.

780. The Sacrament of Extreme Unction must be administered by the sacred anointings with properly blessed olive oil and pronouncing the words prescribed in the rituals approved by the Church. (Canon 937.)

CHAPTER I.

The Minister of Extreme Unction.

781. This Sacrament can be validly administered only by a priest.

With the exceptions mentioned in Canons 397, n. 3, and 514, §§ 1-3, the pastor of the parish in which the sick person happens to be is the ordinary minister of Extreme Unction. In case of necessity, or with the permission at least presumed of the pastor or the Ordinary, any other priest may administer this Sacrament. (Canon 938.)

782. The ordinary minister is bound in justice to administer Extreme Unction, and in case of necessity any priest is bound to do so by the virtue of charity. (Canon 939.)

CHAPTER II.

The Recipient of Extreme Unction.

783. Extreme Unction can be given only to the faithful who after having come to the use of reason fall into danger of death, either through illness or old age.

In the same illness this Sacrament cannot be repeated, unless the sick person recovered from the illness after receiving the sacred anointing and again relapsed into danger of death. (Canon 940.)

784. When there is doubt whether the sick person has attained the use of reason, or whether he is really in danger of death, or whether he is still alive, this Sacrament is to be given conditionally. (Canon 941.)

785. This Sacrament must not be given to those who are known to have stubbornly persevered in mortal sin without repentance; if there is doubt about their disposition, Extreme Unction may be given them conditionally. (Canon 942.)

786. Those sick persons who, while they were conscious, did implicitly ask for Extreme Unction, or would very probably have asked for it, may be given this Sacrament absolutely, even though they are at the time deprived of the use of their senses. (Canon 943.)

787. Although Extreme Unction is not a Sacrament absolutely necessary for salvation, no one is allowed to neglect it, and care should be taken that the sick receive it while they are yet fully conscious. (Canon 944.)

CHAPTER III.

The Rites and Ceremonies of Extreme Unction.

788. The olive oil to be used in Extreme Unction must be

blessed for that purpose by a bishop, or by a priest who has the faculty for this blessing from the Holy See. (Canon 945.)

789. The *Oleum infirmorum* is to be kept by the pastor in a neat and properly ornamented place in a receptacle of silver or white metal; he shall not keep it in his house except in the case provided for in Canon 735. (Canon 946.)

790. The anointings are to be performed with the words, and in the order and manner prescribed in the rituals; in case of necessity, however, one anointing of one of the senses, or rather on the forehead, with the prescribed shorter form, suffices, but the obligation remains to supply the other anointings when the danger ceases.

The anointing of the loins is always to be omitted.

The anointing of the feet may be omitted for any good reason.

With the exception of a case of grave necessity, the anointings are to be made by the hand of the priest without the use of any instrument. (Canon 947.)

TITLE VI.

The Sacrament of Orders.

791. The Sacrament of Orders, by the institution of Christ, distinguishes in the Church the clergy from the laity, for the government of the faithful and the ministry of Divine worship. (Canon 948.)

792. In the Canons which follow the term of *major* or *sacred* Orders signifies the priesthood, deaconship and subdeaconship; the term *minor* Orders refers to acolites, exorcists, lectors and *ostiarius*. (Canon 949.)

793. In law the terms: ordain, order, ordination, sacred ordination, comprehend, besides the episcopal consecration, the orders enumerated in Canon 949, and also the first tonsure, unless the contrary is plain from the nature of the case, or the context of the Canons. (Canon 950.)

CHAPTER I.

The Minister of Sacred Ordination.

794. The *ordinary* minister of sacred ordination is the bishop; the *extraordinary* minister is a person who, although not

possessing episcopal consecration, has received either by law or by a special indult of the Holy See the power to confer some orders. (Canon 951.)

795. No one is allowed without permission of the Holy See to promote to higher orders a cleric who has received some orders from the Roman Pontiff. (Canon 952.)

796. The episcopal consecration is reserved to the Roman Pontiff so that no bishop is allowed to consecrate another bishop, unless he has first received the papal mandate. (Canon 953.)

797. The consecrating bishop must employ two other bishops to assist him in the consecration, unless the Holy See has dispensed from this rule. (Canon 954.)

798. Every cleric shall be ordained by his own bishop, or with his legitimate dimissorial letters.

The proper bishop shall ordain in person his own subject, unless he is impeded by some just cause; he cannot, however, licitly ordain a subject belonging to an Oriental Rite without an apostolic indult. (Canon 955.)

799. The proper bishop in reference to the ordination of seculars is only that bishop in whose diocese the candidate has a domicile, together with the birth place, or only a domicile without having been born in the diocese. In the latter case the candidate must take the oath that he has the intention to perpetually stay in the diocese, unless there is question of a cleric who has already been incardinated into the diocese by the first tonsure, or of ordaining an alumnus who is destined for another diocese, according to Canon 969, § 2, or, finally, of ordaining a professed religious, according to Canon 964, n. 5. (Canon 956.)

800. The vicar and prefect apostolic, the abbot and the prelate *nullius,* if they have episcopal consecration, are held equal to the bishop in the matter of ordination.

If they do not have episcopal consecration they can nevertheless confer in their own territory during the time of their office the first tonsure and minor orders on their own subjects, as well as on others who have the dismissorial letters required by law; ordination which was conferred beyond these limitations is null and void. (Canon 957.)

801. Dimissorial letters for the seculars can be given, as long as they retain jurisdiction over their territory:

1. by the proper bishop after he has legitimately taken pos-

session of his diocese, according to Canon 334, § 3, even though he is not yet consecrated;

2. by the vicar general, by special mandate of the bishop;

3. by the vicar capitular with the consent of the Chapter after one year of vacancy of the bishopric; before the end of the year he can give dimissorials only to those who must be ordained on account of a benefice they have received or are to receive, or on account of some certain office which must be filled on account of the needs of the diocese;

4. by the vicar or prefect apostolic, the abbot or prelate *nullius,* though they do not have episcopal consecration, and they can give dimissorials also for major orders.

The vicar capitular should not give dimissorials to those who were rejected by the former bishop. (Canon 958.)

802. He who can give dimissorial letters for the reception of orders can also confer the orders himself, if he has the necessary power to confer orders. (Canon 959.)

803. Dimissorial letters should not be granted until after all the prescribed testimonial letters have been received in accordance with Canons 993-1000.

If after the Ordinary has given the dimissorial letters new testimonial letters are necessary according to Canon 994, § 3, the other bishop should not proceed with the ordination until he has received the testimonials.

If the candidate has lived in the diocese of the ordaining bishop for the length of time sufficient to contract an impediment, according to Canon 994, the ordaining bishop himself should directly collect the testimonials. (Canon 960.)

804. The dimissorial letters can be sent by the proper bishop, also by a suburban Cardinal-bishop, to any bishop in communion with the Holy See, with the exception of a bishop of a different Rite from that of the candidate for orders, unless an Apostolic indult has been obtained to send the candidates also to a bishop of a different Rite. (Canon 961.)

805. Any bishop lawfully ordains a non-subject after having received the dimissorial letters, provided he has no reason to doubt the genuineness of the letters. Canon 994, § 3, must also be observed in the case mentioned there. (Canon 962.)

806. The dimissorial letters may be limited or revoked by the person who issued them, as well as by his successor in

office, but once they have been granted they do not expire with the loss of office by the grantor. (Canon 963.)

807. In reference to the ordination of religious the following rules are to be observed:

1. the regular abbot in charge of a monastery, even without a territory *nullius,* can confer first tonsure and minor orders, provided the candidate is his subject by virtue of at least simple profession, and that the abbot is a priest, and has legitimately received the abbatial blessing. Otherwise the ordination given by the abbot is null and void, unless he is a consecrated bishop. All privileges to the contrary are revoked by the Code;

2. the exempt religious cannot be lawfully ordained by any bishop without the dimissorials of their proper major superior;

3. the superiors can give simple professed religious, to whom Canon 574 refers, dimissorial letters for first tonsure and minor orders only;

4. the ordination of members of any other religious organizations is regulated by the law for seculars, and every privilege is revoked by which the superiors could give to the temporary professed religious dimissorials for major orders. (Canon 964.)

808. The bishop to whom the religious superior must send the dimissorial letters is the bishop of the diocese in which is situated the house where the candidate for ordination lives as a member of that community. (Canon 965.)

809. The religious superior can send dimissorial letters to another bishop in the following cases; if the bishop of the diocese gives permission, if the bishop should be of a different Rite from that of the religious, if he is absent, if he will not have ordinations on the next ordination days (cf. Canon 1006, § 2), or, finally, if the diocese is vacant and the person in charge has no episcopal consecration.

In each of these cases, however, the ordaining bishop must have an authentic statement from the episcopal Curia concerning the reason why the religious may be sent outside the diocese for ordination. (Canon 966.)

810. Religious superiors are forbidden to send their candidates for ordination to another house of the Order, thus defrauding the bishop of the diocese of his right, or to delay the

ordination intentionally to such a time when the bishop will be absent or have no ordinations. (Canon 967.)

CHAPTER II.

The Subject of Sacred Ordination.

811. A baptized man only can validly receive orders. For the licit reception the candidate must by the judgment of his own Ordinary have the qualifications required by the sacred Canons, and must not be under irregularity or any other impediment.

Those who suffer from irregularity or any other impediment, although it arose after the ordination and without their fault, are forbidden to exercise the orders they have received. (Canon 968.)

812. No secular shall be ordained, unless his own bishop judges him necessary or useful for the churches of the diocese.

The bishop, however, is not forbidden to ordain his subjects for the future service in another diocese, excardination and incardination having been legitimately made. (Canon 969.)

813. The proper bishop and the major religious superior can forbid his clerics for any canonical reason, even occult ones, and without canonical trial, to receive higher orders. The cleric may have recourse to the Holy See, or also, in the case of a religious, to the Superior General. (Canon 970.)

814. It is unlawful to force any one in any way, or for any reason, to embrace the clerical state, or to keep a properly qualified person from that state. (Canon 971.)

815. Care should be taken to receive the aspirants to sacred orders into the seminary from tender age. All candidates must stay in the seminary at least for the entire course of theology, unless the Ordinary in particular cases dispenses from this rule for serious reasons.

Those candidates for orders who, with the permission of the bishop live outside the seminary, are to be given into the care of a responsible priest who shall watch over them and instruct them in the virtues. (Canon 972.)

Article I. Requisites for Candidates of Ordination.

816. First tonsure and minor orders are to be given to those only who intend to ascend to the priesthood, and of whom one can reasonably expect that they will be worthy priests.

The cleric who has received some of the orders, and refuses to receive higher ones cannot be forced to it by the bishop, who neither can forbid him the exercise of the orders he has received, unless he is under a canonical impediment, or there is, according to the bishop's judgment, another serious reason.

The bishop should not confer major orders on any candidate unless he is certain from positive reasons that the candidate is canonically fit; otherwise the bishop does not only sin gravely, but also exposes himself to the danger of cooperating in the sins of another. (Canon 973.)

817. In order that a candidate may be licitly ordained, the following is required:

1. previous reception of Confirmation;
2. good moral character concordant with the order to be received;
3. the canonical age;
4. requisite knowledge;
5. reception of inferior orders;
6. observance of the intervals between orders;
7. canonical title, if there is question of major orders.

In the consecration of a bishop Canon 331 is to be observed. (Canon 974.)

818. Subdeaconship is not to be given before the completed twenty-first year of age; deaconship not before the completed twenty-second; priesthood not before the completed twenty-fourth year of age. (Canon 975.)

819. Neither seculars nor religious are to receive first tonsure before they commence the theological course.

Provided the candidate has the required age, subdeaconship is not to be given until the end of the third year of the theological course; deaconship after the commencement of the fourth year; priesthood not until the beginning of the second semester of the fourth year.

By special concession of the Holy See to the Church in the United States the course of theology has for the time of the war been shortened to three years. The raising of immense armies in which there is a great percentage of Catholic men, has necessitated the appointment of hundreds of chaplains to attend to the spiritual needs of the men. The time for the major orders will have to be arranged accordingly.

The theological course must not have been made privately,

but in proper theological schools, according to the plan of studies prescribed by Canon 1365. (Canon 976.)

820. The orders must be given in proper succession, so that the skipping of any is absolutely forbidden. (Canon 977.)

821. In the ordinations the intervals of time between orders is to be observed, during which the clerics shall, according to the bishop's regulations, exercise the orders received.

The interval between the first tonsure and the first minor order, as well as the intervals between the individual minor orders are left to the judgment of the bishop. Between the last minor order and subdeaconship there must be one year's interval, between subdeaconship and deaconship at least three months, unless the necessity or utility of the diocese, according to the bishop's judgment, demand otherwise.

Without special permission of the Roman Pontiff, minor orders and subdeaconship, or two major orders, cannot be given on one and the same day; all contrary custom is condemned. It is not even permitted to confer the tonsure and a minor order, or all minor orders on the same day. (Canon 978.)

822. For the secular clergy the canonical title is the title of benefice, or in default of a benefice, the patrimony or pension.

The title by which one is ordained must be really certain for the whole life of the cleric, and truly sufficient for his proper maintenance, according to the rules to be laid down by the Ordinaries for the various dioceses, and the conditions of time and circumstances. (Canon 979.)

823. If the cleric in major orders should happen to lose his title, he must provide for himself another, unless his bishop judges that his proper maintenance is provided for in another way.

The persons, who, without an Apostolic indult have knowingly ordained, or allowed to be ordained to major orders a subject without a canonical title, must assume obligation for themselves and for their successors, to furnish the needy cleric with proper sustenance, until other provision is made for his suitable maintenance.

If the bishop ordained a candidate without a canonical title under an agreement that the one ordained shall not ask him for maintenance, such agreement is null and void. (Canon 980.)

824. If there is none of the titles of ordination, spoken of

in Canon 979, § 1, it may be supplied by the title of "service of the diocese," and in places subject to the Propaganda the candidates may be ordained by the title of the mission, in which case, however, the candidate must promise under oath to serve the diocese or the mission forever, under the authority of the local Ordinary.

The Ordinary must give to the priest, who was promoted to major orders under the title of the service of the diocese or the mission, a benefice or office or support sufficient for his suitable maintenance. (Canon 981.)

825. For regulars the canonical title is the solemn religious profession, which is called the title of poverty.

For religious with perpetual simple vows, the title of *mensa communis,* or *congregationis,* or a similar one, according to their constitutions.

All other religious are, also in reference to the title, governed by the law for seculars. (Canon 982.)

Article II. Irregularities and Other Impediments.

826. No perpetual impediment, called in law *irregularity,* whether *ex defectu* or *ex delicto,* is contracted unless it is expressly contained in the following Canons. (Canon 983.)

827. The following persons are irregular *ex defectu:*

1. illegitimates, both of public and occult illegitimacy, unless they have been legitimized or have made solemn profession. Canon 1116 explains in which cases illegitimate children are legitimized by subsequent marriage;

2. bodily defective men who, on account of debility cannot safely, or for reason of deformity with due dignity, engage in the sacred ministry of the altar. To impede the exercise of lawfully received orders, a greater defect is required, and actions that can be properly performed are not forbidden by a supervening defect;

3. epileptics, insane, possessed by the devil, who are or have been thus afflicted. If after reception of orders they became thus afflicted, but later on the malady beyond doubt disappeared, the Ordinary may again allow his subjects the exercise of the orders they received;

4. bigamists, by which the law understands men who contracted successively two or more valid marriages. This explana-

tion the Code gives of bigamy settles questions of irregularity arising from the *bigamia interpretativa,* or any other;

5. persons who have incurred by law the loss of good reputation;

6. a judge who has pronounced the sentence of death against some individual brought to trial. This irregularity is known under the name of *defectus lenitatis* in former commentaries of law;

7. persons who held the office of executioner, and those who, of their own accord, undertook the office of immediate assistants in the execution of a death sentence. Policemen and others, that might be ordered to assist at and help in the execution of a criminal, are not voluntary assistants. (Canon 984.) It may be noted that the Code makes no mention of the former irregularity or defect arising from voluntary service in a just offensive war for all who killed or mutilated another in that war.

828. The following persons are irregular by crime (*ex delicto*):

1. apostates from the faith, heretics, schismatics;

2. men, who, outside the case of extreme necessity, allowed themselves in any way to be baptized by non-Catholics;

3. married men, clerics in major orders, religious with solemn or simple perpetual or temporary vows, who attempt marriage or go through the civil formalities of marriage, and men who attempt marriage with a validly married woman, or with a sister bound by either perpetual or temporary vows;

4. voluntary murderers, and those who procure abortion, if effective, and all cooperators. (The common teaching of canonists held that all soldiers who took part in an unjust war and either killed or personally cooperated in the killing of others were irregular. The Code speaks only of voluntary murderers. In a war which is known to be unjust those who volunteer for service and are instrumental in killing others are falling under the term of "voluntary murderers," while those who are forced to take part in such a war could not be called voluntary participants);

5. men who mutilated themselves or others, and those who attempted suicide;

6. clerics practicing medicine or surgery forbidden to them, if thereby the death of a person is caused;

7. men who usurp the exercise of an act of orders reserved to clerics in sacred orders, and also clerics in sacred orders who exercise such an act of major orders after they have been forbidden to do so by canonical penalty, either personal or local, corrective or punitive. (Canon 985.)

829. These crimes do not bring on irregularity unless they are mortal sins, committed after Baptism, or in Baptism as mentioned in Canon 985, § 1, and external acts, either public or occult. (Canon 986.)

830. Simply forbidden to be ordained are the following:

1. the sons of non-Catholics, as long as their parents persevere in their error;

2. married men for the time of their marriage;

3. officials and administrators having an office forbidden to clerics, until they have resigned their office and settled all responsibility arising from such office or employment;

4. slaves, properly so called, before they have obtained their liberty;

5. men bound to the ordinary military service by the civil law may not be ordained until they have served their term;

6. neophytes, until they are according to the judgment of the bishop sufficiently tried in their faith;

7. those who are in ill repute on account of some public crime, until they have according to the bishop's judgment regained their good reputation. (Canon 987.)

831. Ignorance of the irregularities both *ex delicto* and *ex defectu* and of the impediments is not admitted as an excuse. (Canon 988.)

832. The irregularities and impediments are multiplied by the multiplication of the causes of irregularities or impediments, but the repetition of the same cause does not multiply the irregularity except in the case of deliberate homicide. (Canon 989.)

833. The Ordinaries are allowed to dispense their subjects, or delegate others to dispense, from all irregularities incurred by secret crime except deliberate homicide and effective procuration of abortion, and other crimes brought before court.

The confessor also has this faculty in more urgent occult cases, in which the Ordinary cannot be asked, and there is imminent danger of great harm or of infamy, which faculty can

be made use of only for the purpose that the penitent may licitly exercise the orders he has already received. (Canon 990.)

834. In the petition for dispensation from irregularities and impediments, all irregularities and impediments must be specified, otherwise a general dispensation will be valid for irregularities concealed in *good faith,* except voluntary homicide and effective abortion, but it will not be valid for those concealed in *bad faith.*

If there is question of voluntary homicide, the number of crimes must be mentioned under pain of invalidity of the dispensation.

A dispensation from irregularities to receive orders is generally valid also for major orders, and the one dispensed can obtain non-consistorial benefices, even those to which the care of souls is attached, but he cannot be made a Cardinal, bishop, abbot or prelate *nullius,* nor major superior in clerical exempt Orders.

A dispensation from irregularities given in the internal, extra-sacramental forum must be given in writing, and note must be made of it in the secret records of the Curia of the respective Ordinary. (Canon 991.)

CHAPTER III.

Requisites Prior to the Ordination.

835. All candidates, both secular and regular, must in due time manifest their intention to receive orders to the bishop, or to others, who, in this matter take the place of the bishop. (Canon 992.)

836. The seculars, and those religious who, in the matter of ordination are held to the laws for seculars (cf. Canon 964), must:

1. have the certificate of their last ordination, or if they are to receive first tonsure, the baptismal and Confirmation certificates;

2. the certificate of studies required for the various orders, according to Canon 976;

3. the testimonials of the rector of the seminary, or of the priest in charge of those who do not board in the seminary, to testify to their good moral standing;

4. the testimonials of every Ordinary in whose diocese the

candidate has stayed for such a length of time that he could contract a canonical impediment (cf. Canon 994);

5. the testimonials of the major superior, if the candidate is a religious. (Canon 993.)

837. The time in which a candidate may have contracted a canonical impediment, means a period of three months for soldiers, six months for others after their fourteenth year of age. The bishop can, however, demand testimonials also for a shorter period and for the time prior to the age of puberty.

If the bishop in whose diocese a candidate has lived for a while, cannot ascertain anything definite about the behavior of the young man in question, so that he cannot testify that he did not incur a canonical impediment, or if the candidate has been living for a short time in so many dioceses that it would be either impossible or at least very difficult to obtain all the testimonials, the ordaining bishop shall demand of the candidate a so-called supplementary oath to prove that he is free from irregularity.

If, after the testimonials were obtained and before ordination took place, the candidate did again live in the territory of the bishop who issued the testimonials, new testimonials are necessary if the stay extended for three or six months, as the case may be. (Canon 994.)

838. The religious superior must attest in his dimissorial letters not only that the candidate for orders has made profession and is a member of the community in the diocese, but also concerning the requisite studies and other requirements of law.

The bishop who has received these dimissorial letters does not need any other testimonial letters. (Canon 995.)

839. Every candidate, whether secular or religious, must before ordination undergo an examination concerning the order which he is to receive.

Those to be promoted to major orders shall have to take an examination also in other tracts of sacred theology.

The bishop has the right to determine the method of examination and the subject-matter in which candidates are to be examined. (Canon 996.)

840. This examination of both, secular and religious candidates, is to be made before the bishop of the diocese who has by law the right to ordain, or who gives dimissorials to his subjects; he may also for a good reason leave it to the ordaining bishop, if the latter is willing to attend to this matter.

The bishop who ordains the subjects of another, whether secular or religious, with the dimissorial letters of their superiors in which they testify that the candidates have successfully passed the examination demanded by the first paragraph of this Canon, may accept this statement, but he is not obliged to do so; if he conscientiously believes that a certain candidate is not qualified he should not promote him. (Canon 997.)

841. The names of the candidates for major orders, with the exception of religious in solemn or perpetual simple vows, should be announced in the parishes to which the candidates belong. The bishop may for good reasons dispense with the publication, or may demand that it be published also in other churches, or that in place of an announcement the names be posted at the door of the church and left there for several days, including at least one Sunday or holiday of obligation.

The publication is to be made on a Sunday or holiday of obligation in the parochial Mass, or on another occasion when there is a large gathering of people in church.

If the ordination has not taken place within six months after the publication, it must be repeated unless the Ordinary dispenses. (Canon 998.)

842. All the faithful are obliged in conscience to make known to the bishop or the pastor any impediment they may know of concerning the candidates. (Canon 999.)

843. The Ordinary may demand of the pastor who has to make the publication, or of any other priest, to make a careful investigation concerning the character of the candidate, and to send the statement to the episcopal Curia.

The Ordinary should not fail to make private investigation, if he judge this necessary or advisable. (Canon 1000.)

844. The candidates for first tonsure and for minor orders shall make at least three full days of retreat, candidates for major orders at least six days. If within six months a candidate receives several major orders, the bishop can reduce the days of retreat for deaconship to not less than three full days.

If after the end of the retreat ordination is delayed for any reason for more than six months, the retreat must be made over again; in shorter delays the Ordinary shall decide whether it should be repeated.

This retreat is to be made by the religious in their own house

or in another, according to the superior's judgment; the seculars shall make it in the seminary, or another place appointed by the bishop.

The bishop is to receive a statement from the superior of the house of retreat that the candidates have duly made the exercises, and in the case of religious their own major superior shall make the statement. (Canon 1001.)

CHAPTER IV.

The Rites and Ceremonies of Ordination.

845. In conferring any of the orders the bishop must faithfully follow the order of ceremonies laid down in the Roman Pontifical and other approved liturgical books. (Canon 1002.)

846. The Mass of ordination and of consecration of a bishop must always be said by the ordaining or consecrating bishop. (Canon 1003.)

847. If a cleric has received some orders in an Oriental Rite, and afterwards obtains an indult of the Holy See to receive further orders in the Latin Rite, he must first receive those orders of the Latin Rite which are not given in the Oriental Rite. (Canon 1004.)

848. All those who are promoted to major orders are obliged to receive holy Communion in the Mass of ordination. (Canon 1005.)

CHAPTER V.

Time and Place of Ordination.

849. Episcopal consecration must be given in Holy Mass on a Sunday or a feast of the Apostles.

Major orders must be given in Holy Mass on the Ember Saturdays, Saturday before Passion Sunday, or Holy Saturday.

For grave reasons the bishop may give major orders on any Sunday or holiday of obligation.

First Tonsure can be given any day and hour; minor orders on all Sundays and feasts of the rank of doubles, but only in the forenoon.

Customs to ordain at other times than specified in this Canon are disapproved and abolished. These times must be observed also by a bishop of the Latin Rite who, by Apostolic indult, ordains a cleric of an Oriental Rite, and *vice versa.* (Canon 1006.)

850. Whenever an ordination has to be repeated, or some ceremonies are to be supplied, whether absolutely or conditionally, it can be done also outside the prescribed ordination days and in secret. (Canon 1007.)

851. A bishop cannot, outside his own diocese, without permission of the local Ordinary, give those orders which require the use of the mitre and crozier. The Cardinals have the privilege of performing pontifical functions in any diocese, and need but notify the local Ordinary, if they wish to pontificate in the Cathedral, as Canon 239, § 1, n. 15, decrees. (Canon 1008.)

852. The general ordinations should be held publicly in the cathedral church, in the presence of the cathedral Chapter; if they are held in another place of the diocese, the more prominent church should be selected, and the clergy of the place should be present.

The bishop is not forbidden, when occasion demands, to have special ordinations in other churches, or in the chapel of the episcopal residence, in the seminary, or in a religious house.

The first tonsure and the minor orders may be conferred also in private oratories. (Canon 1009.)

CHAPTER VI.

Record and Testimonial of Ordination.

853. After ordination the names of those ordained, of the minister of ordination, also place and date, shall be recorded in a book specially set apart for that purpose in the episcopal Curia, and all the documents required in the various ordinations shall be preserved.

To each of the ordained clerics an authentic certificate of the orders received shall be given, which, if they were ordained by a strange bishop with dimissorials from their own, they shall show to their Ordinary so that record of the ordination be made in the episcopal Curia. (Canon 1010.)

854. The Ordinary in the case of seculars, the major superior in the case of religious, ordained with his dimissorials, shall send notice to the pastors where those have been baptized who were ordained subdeacons, that the ordination may be entered in the baptismal record as Canon 470, § 2, demands. (Canon 1011.)

TITLE VII.

The Sacrament of Marriage.

855. Christ the Lord himself raised the matrimonial contract among baptized people to the dignity of a Sacrament.

Wherefore, among baptized people there can be no valid marriage contract unless it is at the same time a Sacrament. (Canon 1012.)

856. The primary object of marriage is the procreation and education of offspring; the secondary purpose is mutual assistance and the remedy of concupiscence.

The essential qualities of marriage are unity and indissolubility, which in the Christian marriage receives their peculiar firmness by reason of the Sacrament. (Canon 1013.)

857. Marriage is favored in law, wherefore in a doubt the law insists on the validity of marriage until the contrary is proved. The exception to this rule in reference to the Pauline privilege will be seen in Canon 1127. (Canon 1014.)

858. The valid marriage of baptized people is called *matrimonium ratum* before its completion by the conjugal intercourse; and *ratum et consummatum,* if conjugal intercourse to which marriage of its nature tends has taken place, and by which the married become one flesh.

If after the conclusion of the marriage contract the parties have lived together, consummation of the marriage is presumed in law until the contrary is proved.

Valid marriage of unbaptized parties is called *matrimonium legitimum.*

Invalid marriage is called *matrimonium putativum,* if it was contracted in good faith by at least one of the parties, until such time that both parties become certain of the invalidity of their marriage. (Canon 1015.)

859. The marriage of baptized persons is regulated not only by the Divine law, but also by Canon Law, saving the competency of the civil power over the merely civil consequences of the marriage contract. (Canon 1016.)

860. The promise of marriage, whether one-sided, or bilateral, is null and void in either form unless it is made in writing and signed by the parties and either the pastor, or the local Ordinary, or at least two witnesses.

If either one or both parties do not know how to write, or cannot write, as for instance, in accidents that injured the hand, etc., it is required for the validity of the engagement contract to note in the document the inability to write, and to employ an extra witness who shall sign the paper in addition to the persons mentioned in the preceding paragraph.

The engagement to marry, though it be valid, and there be no just cause to shrink from its fulfilment, does not in law admit of action in the ecclesiastical court to force the other party to marriage. Action for possible injury done by the unjust breaking of the engagement is admitted in the ecclesiastical court. (Canon 1017.)

861. The pastor should not omit to prudently teach the people what they ought to know about marriage and its impediments. (Canon 1018.)

CHAPTER I.

Requisites before Marriage and specially the Banns.

862. Before marriage is contracted it must be certain that there are no obstacles to its valid and licit celebration.

In danger of death, if other proofs are not available, and there are no indications to the contrary, the sworn affirmation of the parties that they are baptized, and that there is no impediment to their marriage, suffices. (Canon 1019.)

863. The pastor whom the law entitles to assist at the marriage shall in good time inquire whether there is any impediment to the marriage.

He should ask separately both the man and the woman whether they are under any impediment, whether they freely consent to the marriage, especially the woman, and whether they are sufficiently instructed in Christian doctrine, unless he knows otherwise that they are well instructed in their religion.

The bishop of the diocese has the right to prescribe special regulations for this examination of parties before their marriage. (Canon 1020.)

864. Unless the parties were baptized in his own parish, the pastor must get the baptismal certificate of the parties, or of the Catholic party only in the case of a Catholic and an unbap-

tized party to be married with the dispensation from disparity of cult.

Catholics who have not yet received Confirmation should first receive that Sacrament, if they can do so without great inconvenience. (Canon 1021.)

865. The pastor should announce publicly the parties to be married. (Canon 1022.)

866. The banns of marriage are to be announced by the proper pastor of the parties.

If a party has lived in some other place for six months after the age of puberty, the pastor should refer the matter to the bishop, who may either have the banns announced in that place, or otherwise order investigations made concerning the free state of the party.

If there is any suspicion of some impediment, the pastor should refer the matter to the bishop even though the party has been living less than six months in another place, and the Ordinary should not permit the marriage until all suspicion is removed by thorough investigation. (Canon 1023.)

867. The publication of the banns is to be made in church on three successive Sunday or holidays of obligation, during the Mass or at other services that are largely attended. (Canon 1024.)

868. The Ordinary may also substitute in his diocese another form of publishing the banns, by posting the names of the parties at the church doors and leaving them there for at least eight days, during which there must be two Sundays or holidays of obligation. (Canon 1025.)

869. Publication of the banns should be omitted in marriages contracted with dispensation from either disparity of cult or mixed religion, unless the Ordinary judges that it should be permitted. This permission, however, can be given only when there is no scandal, and after Apostolic dispensation from the impediment has been obtained, and no reference is to be made to the religion of the non-Catholic. (Canon 1026.)

870. All the faithful are obliged in conscience to manifest either to the pastor or to the bishop any impediment they may know concerning the marriage of the parties that are announced. (Canon 1027.)

871. The proper bishop of the contracting parties can for

legitimate reasons dispense from the publication of the banns, not only in his own diocese, but also in the diocese where the parties formerly lived.

If the parties belong to two different dioceses, the bishop in whose diocese the marriage is to take place has the right to dispense. If the marriage is to be contracted outside either of the two dioceses, either bishop is competent to dispense. (Canon 1028.)

872. If another pastor examined the parties and announced the banns, he should inform the pastor who is to assist at the marriage concerning these affairs. (Canon 1029.)

873. After the examination of the parties and the proclamation of the banns the pastor should not assist at the marriage unless he has received whatever papers may be necessary, and wait three days after the last calling out of the banns, unless there is good reason to dispense with this rule.

If marriage was delayed for six months after the announcement of the banns, they must be repeated, unless the Ordinary decides otherwise. (Canon 1030.)

874. § 1. The following rules are to be observed when doubt arises as to some impediment:

1. the pastor shall investigate the matter more accurately, and ask at least two trustworthy witnesses to make statement under oath, provided there is not question of an impediment that would bring disgrace upon the parties, and if necessary he may also put the parties under oath to make statement concerning the doubtful impediment;

2. he should continue or finish the announcing of the banns, if the doubt arose before the banns were published or during the time of their publication;

3. he should not assist at the marriage without consulting the bishop, if the doubt still continues.

§ 2. When an impediment has been discovered with certainty:

1. if the impediment is secret, the pastor should continue the publication of the banns and refer the matter to the bishop or to the Sacred Penitentiary, not giving the names of the parties;

2. if the impediment is public and is discovered before the publication of the banns has been made, the pastor shall not announce the banns until the impediment is removed, though he may

know that a dispensation was obtained, but only for the internal forum. If the impediment is detected after the first or second publication of the banns, the pastor should finish the publication and refer the matter to the bishop.

§ 3. If there is neither a certain nor doubtful impediment, the pastor should admit the parties to the marriage contract when the publication of the banns is finished. (Canon 1031.)

875. The pastor shall not assist at the marriage of *vagi,* (Canon 91, explains who are called *vagi* in law) except in a case of necessity, without referring the matter to the Ordinary or a priest delegated by him for that purpose, and obtaining permission to assist at such marriages. (Canon 1032.)

876. The pastor shall not neglect to teach the parties to be married the sanctity of the Sacrament of Marriage, the mutual obligations of married people and the duty of parents toward the offspring. He shall also admonish them to make a good confession and receive holy Communion before marriage. (Canon 1033.)

877. The pastor shall earnestly warn young people not to contract marriage against reasonable objections of their parents. If they nevertheless persist, against the lawful objection of their parents, the pastor shall not marry them, but refer the matter to the bishop. (Canon 1034.)

CHAPTER II.

Impediments in General.

878. All persons may contract marriage unless forbidden by law. (Canon 1035.)

879. An *impedient* impediment contains a grave prohibition to contract marriage, but it does not invalidate a marriage contracted with such an impediment.

A *diriment* impediment does not only forbid the marriage, but makes its celebration null and void.

Though the impediment may be on the part of only one of the parties, marriage is nevertheless either illicit, or invalid, for both. (Canon 1036.)

880. An impediment is considered *public* in law when it can be proved in the external forum; otherwise it is *occult.* (Canon 1037.)

881. The supreme authority of the Church alone has the right to authentically declare in what cases the Divine law forbids or annuls a marriage.

The same supreme authority has the exclusive right to constitute for the baptized people other impedient and diriment impediments of marriage, either by universal or particular law. (Canon 1038.)

882. The bishops can forbid any one actually staying in their diocese, and their subjects also while they are outside the diocese, to marry, if there is some special reason, and for the time that the reason lasts.

The Holy See alone can attach to its prohibition the pain of invalidity. (Canon 1039.)

883. The Roman Pontiff alone can abolish or modify the impedient or diriment impediments of marriage in the legislation of the Church, and no one else can dispense in these laws except in as far as is conceded to him either in the common law or by special indult of the Holy See. (Canon 1040.)

884. Custom introducing a new impediment of marriage or tending to change the existing impediments is disapproved by the Code. (Canon 1041.)

885. There are impediments of *major* and of *minor degree.* Impediments of *minor* degree are the following:

1. consanguinity in the third degree of the collateral line;
2. affinity in the second degree of the collateral line;
3. public honesty, in the second degree;
4. spiritual relationship;
5. the impediment of crime, arising from adultery with promise of marriage, or attempted civil marriage.

All other impediments are of major degree. (Canon 1042.)

886. In urgent danger of death the Ordinaries can, for the sake of conscience and for the purpose of legitimizing offspring, dispense from the form of the contract as well as from any and all impediments of ecclesiastical law, public and occult as well as multiple, with the exception of impediments arising from the sacred priesthood and from the affinity in the direct line arising from consummated marriage. This dispensation they can apply to their subjects wherever these are at the time, and to all who actually are in the territory of their diocese; scandal must, of course, be removed and in case the dispensation is granted for

disparity of cult, or mixed religion, the prescribed promises must be made. (Canon 1043.)

887. In the same circumstances as mentioned in the preceding Canon, and only when danger is so urgent that there is no time to approach the Ordinary, the pastor or priest who assists at the marriage, in accordance with Canon 1098, n. 2, and also the confessor, but the latter only for the internal forum and in sacramental confession, have the same faculties as those given to the bishops in the foregoing Canon. (Canon 1044.)

888. The Ordinaries can, under the conditions stated at the end of Canon 1043, if the impediment is discovered only after everything has been prepared for the marriage and the ceremony cannot be delayed until dispensation from the Holy See can be obtained without probable danger of great evil, grant dispensation from all the impediments mentioned in Canon 1043.

This faculty holds good also for the convalidation of a marriage already contracted, if delay is dangerous and there is not sufficient time to recur to the Holy See.

In the same circumstances all priests mentioned in Canon 1044 have the same faculties in occult cases and in emergencies when there is no time to recur to the bishop, or only with danger of violating the seal of confession. (Canon 1045.)

889. The pastor or priest spoken of in Canon 1044 who has granted a dispensation for the external forum shall at once inform the Ordinary of this fact and the dispensation shall be noted in the marriage record of the parish to which the parties belong. (Canon 1046.)

890. Unless the rescript of the Sacred Penitentiary contains other directions, it shall be the rule that dispensations granted by this tribunal for the internal, extra-sacramental, forum are to be recorded in the secret archives of the episcopal Curia, and there is no need of another dispensation if afterwards the impediment becomes public; if the dispensation was granted for the internal sacramental forum only, a new dispensation would be required should the impediment become public. (Canon 1047.)

891. If the petition for a dispensation has been sent to the Holy See, the Ordinaries should not in that case make use of their faculties, except for a serious and urgent reason, in such

case reporting to the Holy See what they have done in the emergency. (Canon 1048.)

892. In marriages, whether contracted or to be contracted, he who has a general indult of dispensing from some certain impediment, can dispense from it even though the same impediment is multiple, unless it is stated differently in the indult.

He who has a general indult to dispense from several impediments of various species, either diriment or impedient, can dispense from these impediments though they be public and occur in one and the same case. (Canon 1049.)

893. If he who has a general indult to dispense from several public impediments meets with a case where there is also another impediment from which he cannot dispense, he must ask the Holy See for dispensation from all impediments in the case. If, however, the impediment or impediments from which he can dispense are found out only after dispensation has been obtained from the Holy See, he may make use of his faculties. (Canon 1050.)

894. By a dispensation from an impediment, granted either by ordinary power, or by delegation in the form of a general indult, the legitimation of the offspring, if the offspring is already born or conceived, is *ipso facto* granted, with the exception of adulterous or sacrilegious offspring. If dispensation is granted by rescript in particular cases, the legitimation is not given *ipso facto,* but must be specially asked for and obtained. One and the same rescript may, however, contain both the dispensation and the legitimation of offspring. (Canon 1051.)

895. The dispensation from the impediment of consanguinity and affinity given for some degree is valid although in the petition or in the concession there is an error concerning the degree, provided the degree that actually exists is inferior, or the impediment which was concealed is of the same species and of equal or inferior degree. (Canon 1052.)

896. The dispensation given by the Holy See from the *matrimonium ratum non consummatum,* or the permission to marry again on account of the presumed death of the first partner, always includes the dispensation from the impediment of crime committed by adultery, and the promise of, or attempt at, marriage, if there is need of such a dispensation, but the impediment of crime incurred by adultery and the killing of the partner

by one of the adulterers, or by mutual cooperation of both, is not *ipso facto* included in the above dispensation, but must be specially obtained. (Canon 1053.)

897. The dispensation from an impediment of *lesser* degree (cf. Canon 1042) is not invalidated by positive lie or by concealing the truth, even though the only motive reason advanced in the petition be false. (Canon 1054.)

898. Dispensations from public impediments committed by the Holy See to the Ordinary of the petitioners shall be executed by the Ordinary who gave letters of recommendation to the petitioner of the dispensation, or who forwarded the petition to the Holy See, though by the time the dispensation arrives they have left the former diocese in which they had a domicile or quasi-domicile with the intention not to return; the Ordinary of the place, however, where they are to contract the marriage is to be advised of the dispensation which was granted by the Holy See. (Canon 1055.)

899. With the exception of a small charge for the necessary expenses of the chancery office for dispensations of those who are not poor, the bishop of the diocese and his officials are not permitted to demand any fee on occasion of granting a dispensation, unless the Holy See shall have explicitly given them this right; if they nevertheless exact any fee, they are held to restitution. All customs contrary to this rule are disapproved by the Code. (Canon 1056.)

900. The person who grants a dispensation in virtue of delegated powers received from the Holy See, must make explicit mention of the papal indult in granting the dispensation. (Canon 1057.)

It may be noted in connection with the question of dispensation from impediments of marriage that a recent decree of the Consistorial Congregation, April 25, 1918, has revoked the special faculties which the bishops used to get for three, five, or ten years. Several of these faculties referred to dispensation from marriage impediments. The Code, in Canons 1043-1045, gives the bishop the necessary faculties in urgent cases, and the mentioned decree grants to the bishops in America, the Philippine Islands, East Indies, Africa beyond the places along the Mediterranean Sea, and Russia, for five years, beginning with May 18, 1918, faculty to dispense from the impediments of

lesser degree mentioned in Canon 1042, and the *sanatio in radice* for marriages contracted invalidly on account of these impediments. The party who knows of the invalidity of the marriage is to be informed of the effects of the *sanatio.* Furthermore, the same Ordinaries receive faculty for five years to dispense from the impediments of major degree induced by Canon Law, either public or occult, and also multiple, with the exception of the priesthood and the affinity in the direct line after the consummation of marriage, and also from the impedient impediment of mixed religion, if after the petition for dispensation has been sent to the Holy See an urgent reason comes up making it necessary to grant the dispensation at once. (*Acta Apost. Sedis, vol. X, pag.* 190.)

CHAPTER III.

Impedient Impediments.

901. Marriage is forbidden to those who have made the *simple vow of virginity,* of *perfect chastity, not to marry, to receive major orders,* or, *to embrace religious life.*

No simple vow invalidates marriage, unless invalidity has been attached to it by the Holy See for some Order, congregation, etc. (Canon 1058.)

902. In those countries where by the civil law marriage is forbidden on account of *legal adoption,* marriage is also by Canon Law illicit. (Canon 1059.)

903. The Church forbids most severely and in all countries marriage between a Catholic and an heretic, or schismatic. If there is danger of perversion for the Catholic party and the offspring, such marriage is also forbidden by the Divine law. (Canon 1060.)

904. The Church does not dispense from the impediment of mixed religion unless:

1. there are good and serious reasons;

2. the non-Catholic party promises to remove all danger of perversion of the Catholic party, and both parties promise that all their children shall be baptized and brought up as Catholics;

3. there is moral certainty that the promises will be kept. The promises are, as a rule, to be made in writing. (Canon 1061.)

905. The Catholic party has the obligation to prudently work for the conversion of the non-Catholic. (Canon 1062.)

906. When the Church has given the dispensation from the impediment of mixed religion, the parties are not allowed, either before or after the Catholic wedding, to approach either in person or through proxies a non-Catholic minister as such, to give or renew the consent in the Protestant Rite.

If the pastor knows that the parties will certainly violate or have already violated this law, he shall not assist at their marriage, except for very serious reasons, and only after scandal has been removed, and the Ordinary has been consulted.

The Church does not censure parties who are forced by civil law to appear before a non-Catholic minister, who acts as an official of the government, but their intention must be to merely comply with the requirements of law and to gain the civil recognition of their marriage. (Canon 1063.)

907. Bishops and other pastors of souls shall:

1. deter the faithful as much as they can from mixed marriages;

2. if they cannot prevent them altogether they should by all means see to it that they are not contracted against the laws of God and of the Church;

3. watch that those who contracted a mixed marriage in their own place, or come from other places, live up to their promises;

4. when assisting at a mixed marriage they shall observe Canon 1102, which demands that in such case no sacred ceremonies shall be made use of in witnessing the marriage contract. (Canon 1064.)

908. The faithful should likewise be discouraged from contracting marriage with those who have publicly given up the Catholic faith, though they have not joined a non-Catholic church, and with those who belong to societies condemned by the Church.

The pastor shall not assist at such marriages without consulting his bishop, who, considering all circumstances, may permit him to assist at such a marriage, provided there are serious reasons, if the Ordinary has good grounds to believe that the Catholic education of the children is sufficiently certain, and that

about the death of his, or her, partner in marriage by physical or moral cooperation of the accomplice. (Canon 1075.)

919. The impediment of consanguinity is defined as follows:

1. in the direct line of consanguinity marriage is invalid between persons of all degrees, for the legitimate descendants as well as the natural;

2. in the collateral or branch lines marriage is invalid to the third degree inclusively, in such a manner, however, that the impediment is multiplied only as often as the common progenitors are multiplied. (Cf. Canon 96 for further details on consanguinity);

3. marriage shall never be allowed if there is any doubt as to whether the parties are of blood relation in any degree of the direct line, or in the first degree of the collateral line. (Canon 1076.)

920. The impediment of affinity:

1. invalidates marriage in any degree of the direct line, and in the collateral line to the second degree inclusively (Canon 97 explains how affinity arises, and according to this Canon the former impediment of affinity from sinful intercourse is dropped);

2. the affinity is multiplied (1) as often as the impediment of consanguinity from which the affinity proceeds is multiplied; (2) by repeated successive marriage with a blood relation of the deceased partner in marriage. (Canon 1077.)

921. The impediment of public honesty arises from invalid marriage, whether consummated or otherwise, and from public and notorious concubinage. Marriage is invalidated in the first and second degree of the direct line between the man and blood relations of the woman, and *vice versa.* (Canon 1078.) The impediment from valid engagement is, therefore, abolished.

922. The spiritual relationship mentioned in Canon 768 only invalidates marriage between those who contracted spiritual affinity in Baptism, namely between the person baptized, on the one hand, and the minister and the sponsors on the other. (Canon 1079.)

923. Those who by the civil law are declared incapable to marry on account of legal adoption, cannot equally under Canon Law contract valid marriage. The Church, therefore, in this

particular impediment adopts the civil law and makes it also her own. To know whether there is a diriment impediment of relationship by adoption, and how far it extends, must be learned from the statute law of individual States. (Canon 1080.)

CHAPTER V.

The Matrimonial Consent.

924. Marriage is effected by legally manifested consent of the parties qualified thereto by law, which consent cannot be supplied by any human authority.

The matrimonial consent is an act of the will, by which either party gives and accepts the right to the body, a right both perpetual and exclusive, for the purpose of performing the actions apt by their nature to procreate children. (Canon 1081.)

925. The matrimonial consent cannot be validly given unless the contracting parties know at least that marriage is a permanent union between man and woman, for the purpose of generating offspring.

Ignorance concerning the nature of marriage is not presumed by law in persons who have attained puberty. (Canon 1082.)

926. Error concerning the individual person with whom one is to contract marriage renders marriage null and void.

Error concerning any quality of the person, though such quality caused one to contract marriage, renders marriage invalid only in two cases: (1) If the error concerning a certain quality amounts to an error of the person; (2) if one contracts with a person who was believed to be free when he, or she, is in fact a slave properly so-called in countries where slavery still exists. (Canon 1083.)

927. The mere error concerning the unity and indissolubility, or sacramental dignity of marriage does not annul the matrimonial consent, even if such error caused the consent. (Canon 1084.)

928. The knowledge or opinion of the nullity of marriage does not necessarily exclude matrimonial consent. (Canon 1085.)

929. The internal consent of the mind is always presumed to correspond with the words or signs by which consent is manifested in the celebration of marriage.

the danger of perversion of the Catholic party is removed. (Canon 1065.)

909. If a public sinner, or a person known to be under censure, does not agree first to go to confession and be reconciled with the Church, the pastor shall not assist at his marriage, unless there is grave and urgent reason, concerning which he should consult the Ordinary, if it is possible. (Canon 1066.)

CHAPTER IV.

Diriment Impediments.

910. A boy under sixteen years of age and a girl under fourteen cannot validly contract marriage.

Though marriage is valid when these years are completed, the pastors of souls should dissuade young people from marriage at an earlier age than is commonly the custom in the respective countries. (Canon 1067.)

911. Antecedent and perpetual impotency either on the part of the man or the woman, whether known to the other or not, and whether absolute or relative impotency, annuls marriage by the very law of nature. (The Code does not define the nature of impotency and sterility, wherefore the former doubts concerning this question are not solved authoritatively. One point, however, is made clear in the text here following, namely, that in doubtful impotency, both in a *dubium juris* and a *dubium facti,* there is no prohibition of marriage.)

If the impediment of impotency is doubtful, either as to fact or as to law, marriage is not to be forbidden.

Sterility neither invalidates nor makes marriage illicit. (Canon 1068.)

912. He who is held by a previous marriage bond, though it be not a consummated marriage, cannot validly contract another marriage. The exception of the Pauline privilege will be explained in another Canon.

Though the first marriage be, for some reason, invalid or dissolved, it is not lawful for Catholics to contract another marriage before there is legal proof of the invalidity or the dissolution of the first marriage. (Canon 1069.)

913. The marriage between a person baptized in the Catholic Church, or received into the Church from heresy or schism, and a non-baptized individual is null and void.

If a certain party at the time of the marriage was commonly held to have been baptized, or if his baptism was doubtful, the validity of such marriage must, according to the rule of Canon 1014, be upheld until it is proved with certainty that one party was, and the other was not, baptized. (Canon 1070.)

914. The rules prescribed in Canons 1060-1064 for mixed marriages must be applied also to marriages where there is an impediment of disparity of cult. (Canon 1071.) Canon 1061 plainly states that the Church does not dispense from the impediment of mixed religion, and the same is to be said of the disparity of cult, unless there are grave and urgent reasons and the required promises are made. In the case of disparity of cult the marriage would be invalid, if the conditions of Canon 1061 are not verified.

915. Clerics in major orders cannot validly marry. (Canon 1072.)

916. Likewise religious, who have taken solemn vows, or whose simple vows have by the special law of the Holy See the power to annul marriage, cannot contract a valid marriage. (Canon 1073.)

917. Between the man guilty of rape and the woman whom he abducts with the purpose of marriage there can be no marriage as long as the woman is in the power of the man committing rape.

If the abducted woman, after having been separated from the man, and been placed at full liberty consents to marry that man, the impediment ceases.

As far as the nullity of marriage is concerned, the forcible detention of the woman is held equal to rape, namely when the man by force detains the woman with the purpose to marry her in the place where she lives, or to which she came of her own free will. (Canon 1074.)

918. The impediment of crime invalidates marriage with the accomplice of the crime:

1. if a married person commits adultery by complete conjugal action and enters into a mutual promise of marriage with the partner in adultery, or if they attempt a civil marriage;

2. if a married person commits such adultery and one of the adulterers kills the husband, or wife, of the adulterer;

3. if a married person, without committing adultery, brings

If either one or both parties by a positive act of the will exclude marriage itself, or all right to the conjugal act, or any of the essential qualities of marriage, they contract invalidly. (Canon 1086.)

930. Marriage is also invalid if entered into by *grave fear,* or *force,* which an outside agency brought to bear upon a person *unjustly,* and by which the person was forced to choose marriage as a means to free oneself from the force or the threats.

No other fear carries with it nullity of marriage, though it caused the contract. (Canon 1087.)

931. In order to validly contract marriage the parties must be in each other's presence, either in person or through proxy.

The parties must express their marriage consent in words, and they are not allowed to use equivalent signs, if they can speak. (Canon 1088.)

932. For the valid marriage by proxy a special mandate to contract with a specified individual is required, and the mandate must be signed by the party issuing the same, and by the pastor or the Ordinary of the place in which the mandate is given, or by a priest delegated by either pastor or bishop, or at least by two witnesses. The diocesan statutes may demand additional precautions.

If the person issuing the mandate does not know how to write, this shall be noted in the mandate and an additional witness shall be employed, otherwise the mandate is void.

If the person who gave the mandate recalled the same, or became insane, before the proxy contracted marriage in his name, the marriage is invalid, though neither the proxy nor the other party to the marriage knew about the retraction of consent.

The proxy must in person execute the mandate, otherwise the marriage is invalid. (Canon 1089.)

933. Marriage may also be contracted by means of an interpreter. (Canon 1090.)

934. The pastor shall not assist at a marriage to be contracted by proxy or through an interpreter, unless there is good reason for contracting in the unusual manner, and unless he is certain of the authenticity of the mandate or the truthfulness of the interpreter. If time permits, the pastor must obtain the bishop's permission to assist at such marriages. (Canon 1091.)

935. The *condition* added to a marriage consent, and not retracted, is governed by the following principles:

1. If the condition is of the future and either necessary, or impossible, or sinful, but not against the essence of marriage, it is considered as not added to the contract.

2. If the condition is of the future and against the essence of marriage, it renders the marriage invalid.

3. If the condition is of the future and licit, it suspends the validity of the marriage.

4. If the condition is either of the past or the present, the marriage is valid if the condition is realized, but invalid if it is not realized. (Canon 1092.)

This impediment must not be confused with the impediment of error spoken of in Canon 1083, which states that marriage is valid though there was a mistake concerning non-essential qualities, for instance concerning health, poverty, family rank, etc., of the party. The marriage is held valid in law even though the one party deceived the other purposely concerning these non-essential qualities. If, however, one party to the marriage explicitly states any of these qualities as a condition without which he will not contract marriage, for instance, "I will not marry you unless you are free from such a disease," the marriage is invalid if the condition is not realized. This right the Church grants to the contracting parties for their protection against deceit.

936. Though marriage was contracted invalidly on account of some diriment impediment, the given consent is supposed to persevere until there is certainty about its revocation. (Canon 1093.)

CHAPTER VI.

Form of the Marriage Contract.

937. Those marriages only are valid which are contracted either before the pastor or the Ordinary of the place, or a priest delegated by either, and at least two witnesses, in conformity, however, with the rules laid down in the following Canons, and save for the exceptions mentioned below in Canons 1098 and 1099. (Canon 1094.)

938. The pastor and Ordinary can assist at marriage validly only:

1. from the day they have taken canonical possession of their benefice, according to Canons 334, §3, 1444, §1, or have

entered upon their office. provided they are not excommunicated, interdicted, or suspended from office by a condemnatory or declaratory sentence of the ecclesiastical court (the interdict is here added, whereas the *"Ne Temere"* spoke only of excommunication and suspension. There is also a difference in the manner of inflicting the censures, the *"Ne Temere"* declared the bishop or pastor incapable of assisting at marriage if suspended or excommunicated by public decree and by name, while the Code speaks of inflicting of censures by the ecclesiastical court. Practically it is the same, for a public decree of excommunication, etc., cannot be issued except after a canonical trial);

2. within the limits of their territory; in which they assist validly at the marriages not only of their subjects, but also of non-subjects;

3. provided they are not forced to assist by violence or grave fear, and ask for and receive the consent of the contracting parties. (The Code drops the *rogati et invitati* of the *"Ne Temere,"* namely that the pastor or bishop should have been requested or invited to witness the marriage.)

The pastor and the bishop who can validly assist at marriages may also give permission to another priest to validly witness marriages within the limits of the parish, or the diocese respectively. (Canon 1095.)

939. The permission given to another priest according to the preceding Canon, must be granted to a specified priest for a specified marriage. General delegation cannot be given except to regularly appointed assistants, for the parish to which they are appointed; otherwise the permission or delegation is invalid.

The pastor and the bishop should not give permission to assist until after all that which the law requires for the proof of the free state of the parties has been complied with. (Canon 1096.)

940. The pastor and the bishop assist licitly at marriage only:

1. after they have lawfully ascertained the free state of the contracting parties, according to the regulations of the Code;

2. after they have ascertained that at least one of the parties has a domicile or quasi-domicile in the place of marriage, or has lived there at least for a month. In case of *vagi* it suffices that they are actually staying in the place;

3. if the pastor cannot claim the parties as his subjects under the provisions of the preceding paragraph, he must obtain permission to assist either from the pastor or the Ordinary where one of the parties has a domicile or quasi-domicile, or one month's sojourn, unless there is question of *vagi* who are actually travelling and have no place of sojourn anywhere, or there is grave necessity which excuses from obtaining permission.

In every case it shall be the rule that marriage be celebrated before the pastor of the bride, unless some just reason excuses. Marriages of parties of different Rites shall be contracted in the presence of the pastor of the husband's Rite, unless a particular law rules otherwise.

The pastor who assists at marriages without the permission required by the present Canon cannot make the stole fee his own, but must forward it to the proper pastor of the contracting parties. (Canon 1097.)

941. If the pastor or Ordinary, or a priest delegated by either, according to Canons 1095 and 1096, cannot be had or the parties cannot go to him without great inconvenience, the following rules are to be observed:

1. In danger of death marriage may be validly and licitly contracted in the presence only of two witnesses; even apart from the danger of death marriage may be contracted without the presence of an authorized priest, if it can be prudently *foreseen* that this state of affairs, namely the difficulty to have an authorized priest witness the marriage, *will continue for a month.* (Two important modifications of the *"Ne Temere"* are contained in this Canon, first that in danger of death marriage can be contracted without a priest before two witnesses, and, second, that in places where a priest cannot be had or the parties cannot go to him, they need not wait for a whole month, if there is good reason to judge that the same conditions will continue for a month.)

2. In either case, if there is another priest not delegated, for instance on vacation or a visit, who can be present, he should be called and together with the witnesses assist at the marriage, but only the two witnesses are necessary for validity. (Canon 1098.)

942. To the form of marriage as demanded by the preceding Canons are held:

1. all persons baptized in the Catholic Church, and converts to the Church from heresy or schism, though the first mentioned as well as the converts should afterwards have fallen away, if they contract marriage among themselves.

2. Catholics, as described in the foregoing paragraph, who marry non-Catholics, either baptized or unbaptized, even after they have obtained a dispensation from disparity of cult, or mixed religion.

3. Catholics of Oriental Rites who marry persons of the Latin Rite held to this form of marriage.

Saving the rule of §1, n. 1, of this Canon, non-Catholics, whether baptized or un-baptized, are nowhere held to the Catholic form of marriage when they contract marriage among themselves. Exempt are also children of non-Catholics, who, though they were baptized in the Catholic Church, were reared from their infancy in the non-Catholic faith or in infidelity and without religion, when they contract marriage with non-Catholics. (Canon 1099.)

943. Outside the case of necessity, the sacred Rites prescribed in the liturgical books approved by the Church, or laudable customs approved by the Church, shall be employed in the celebration of marriage. (Canon 1100.)

944. The pastor should attend to it that the couple receives the nuptial blessing, which can be given them also after they have lived in marriage for a long time, but it can be pronounced only in Holy Mass with the observance of the special rubric, and on all days with the exception of the days specified in Canon 1108.

The solemn nuptial blessing can be bestowed only by the priest, or by his delegate, who has the right validly and licitly to witness the marriage contract. (Canon 1101.)

945. In a marriage between a Catholic and a non-Catholic the questions eliciting the consent of the parties are to be put by the priest as demanded by Canon 1095, §1, n. 3.

All sacred rites, however, are forbidden. If from this prohibition greater evils are foreseen to follow, the bishop may allow some of the usual church ceremonies with the exception of the celebration of Holy Mass. (Canon 1102.)

946. After the celebration of marriage the pastor, or he who takes his place, shall as soon as possible enter in the marriage record the names of the married couple and of the witnesses, the place and date, and other items prescribed in the rituals and the

diocesan statutes. The pastor shall make the entry even if another priest, delegated either by himself or by the bishop, blessed the marriage.

The pastor shall also, according to Canon 470, §2, note in the baptismal record that the parties contracted marriage in his parish on that day. If one or both parties were baptized in another parish, the pastor in whose parish the marriage was contracted shall send notice of the fact to the pastor where the parties were baptized, which he may do either directly or through the Curia of his diocese.

Whenever marriage was contracted according to Canon 1098, the priest, if there was one present, and otherwise the witnesses, must see to it that the marriage is entered in the two records. (Canon 1103.)

CHAPTER VII.

The Marriage of Conscience.

947. By a marriage of conscience is understood a marriage contracted without the publication of the banns and in secret, in accordance with the following Canons. The bishop may allow such a marriage only for very grave and urgent reasons; the vicar general cannot allow such marriages except by special mandate of his bishop. (Canon 1104.)

948. The permission to contract a marriage of conscience imports the promise and grave obligation of observing the secret on the part of the assisting priest, of the witnesses, of the Ordinary and his successors, and also of the contracting parties as long as one of the partners does not consent to the publication. (Canon 1105.)

949. This promise of secrecy on part of the Ordinary does not bind him in cases where the keeping of the secret should cause scandal or grave injury to the sanctity of marriage, or when the parties do not have their children baptized, or give fictitious names to hide their parenthood, unless they give their true names to the Ordinary within thirty days from the birth and baptism of the child, or, finally, when they neglect the Catholic education of their children. (Canon 1106.)

950. The marriage of conscience is not to be entered in the ordinary records of marriage and Baptism, but is to be kept in the secret archives of the Curia. (Canon 1107.)

CHAPTER VIII.

Time and Place of Marriage.

951. Marriage may be contracted any time of the year. The solemn nuptial blessing only of marriage is forbidden from the first Sunday in Advent to Christmas, inclusively, and from Ash Wednesday to Easter Sunday, inclusively. The bishop may permit marriage in these seasons for a good reason, even *with* the nuptial blessing, as decided by S. R. C. June 14, 1918, but the parties must refrain from too much pomp. (Canon 1108.)

952. The marriage between Catholics shall be contracted in the parish church; in another church, public or semi-public oratory, it cannot take place without the permission of either bishop or pastor.

In private houses the bishop may not permit the celebration of marriage except in some extraordinary case and for good reasons. In the churches or chapels of seminaries or of religious women, the Ordinary should not allow the celebration of marriage except in urgent necessity and with due precautions.

Marriages between a Catholic and a non-Catholic shall be contracted outside the church. If, however, the bishop judges that this rule cannot be insisted upon without causing other greater evils, it is left to his judgment to allow the marriage to take place in the church but without Holy Mass, as Canon 1102, §2 rules. (Canon 1109.)

CHAPTER IX.

Consequences of Marriage.

953. From valid marriage there arises between the married couple a bond perpetual and exclusive in its very nature. Christian marriage, moreover, gives to the parties who place no obstacle to it the grace of the Sacrament. (Canon 1110.)

954. Either of the married parties possess, from the moment the contract has been concluded, equal rights and duties concerning the actions proper to conjugal life. (Canon 1111.)

955. Unless the special law rules otherwise, the wife shares in the state of her husband, as far as canonical effects are concerned. (Canon 1112.)

956. The parents are bound by a most serious obligation

to provide to the best of their ability for the religious and moral as well as the physical and civil education of their children, and to care for their temporal wellbeing. (Canon 1113.)

957. Legitimate children are those conceived or born in valid marriage, or in marriage contracted in good faith though invalidly. If married people make solemn profession in a Religious Order, or if the husband receive major orders, the use of marriage is forbidden to them, and if by intercourse after such profession or ordination a child is conceived and born, it is not considered legitimate. (Canon 1114.)

958. As the father of a child is considered he who appears to be such by lawful marriage, unless there are evident arguments to prove the contrary.

The children who are born at least six months after the date of marriage, or within ten months from the dissolution of conjugal life, are in law presumed legitimate. (Canon 1115.)

959. By a subsequent marriage contracted validly, or in good faith, or by validation of marriage, though not consummated by conjugal intercourse, offspring is legitimized, if the parents were capable to contract marriage with each other either at the time of conception, or pregnancy, or birth. (Canon 1116.)

960. Children legitimized by subsequent marriage are, as far as canonical effects are concerned, held equal in all things to legitimate offspring, unless the Canons explicitly make an exception. (Canon 1117.)

CHAPTER X.

Separation of Married People.

Article I. Dissolution of the Marriage Bond.

961. The valid marriage of Christians, consummated by the conjugal act, cannot be dissolved by any human authority for any reason; death alone can dissolve the bond. (Canon 1118.)

962. Non-consummated marriage between baptized persons, or between a baptized and an unbaptized, is dissolved by law through solemn religious profession, as well as by dispensation of the Holy See, granted for a good reason at the request of either or both parties, or of one of them even though the other objects. (Canon 1119.)

963. The valid marriage of unbaptized persons, though consummated, is dissolved in favor of the faith by the Pauline privilege.

This privilege cannot be applied in a marriage between a Catholic and an unbaptized person if contracted with the dispensation from the disparity of cult. (Canon 1120.)

964. Before the converted and baptized party can validly contract a new marriage, he must first interpellate the unbaptized party. Canon 1125 contains some exceptions to this rule. The interpellation consists in this that the convert is to ask (1) whether also the other party wishes to be converted and baptized, (2) in case the other party does not wish to be baptized, whether he, or she, is willing to live in marriage without offense to God, which is to say that he, or she, will not interfere with the religious obligations of the convert.

These interpellations must always be made, unless the Holy See has decreed otherwise. (Canon 1121.)

965. The interpellations should as a rule be made in summary and extrajudicial form with the authority of the Ordinary of the converted party, who is also entitled to grant the unbaptized party at his, or her, request a certain length of time to reflect before making answer, with the notification, however, that failure to answer within the specified time will be taken as a reply in the negative.

Interpellations made privately by the converted party itself are also valid, and also licit, if the above mentioned form cannot be observed; but in this case there must be proof of the interpellation by at least two witnesses or by other proof acknowledged in law. (Canon 1122.)

966. If the interpellations were omitted by permission of the Holy See, or if the unbaptized party should have given either explicitly or tacitly an answer in the negative, the baptized party has the right to contract a new marriage with a Catholic, unless after Baptism he gave the unbaptized just cause for separation. (Canon 1123.)

967. The convert who after Baptism lived again in marriage with the unbaptized party does not thereby forfeit the right to enter upon a new marriage with a Catholic, wherefore he can make use of his right, if the unbaptized party does afterwards change his mind, and, without the fault of the other party,

separates, or does not live peacefully and without injury to the religious obligations of the converted Catholic. (Canon 1124.)

968. The Constitutions of Pope Paul III.: *"Altitudo,"* June 1, 1537; of Pope St. Pius V.: *"Romani Pontificis,"* Aug. 2, 1571; of Pope Gregory XIII.: *"Populis,"* Jan. 25, 1585, given to individual countries, are, as far as marriage is concerned, extended to all other countries in the same circumstances. The passages of these constitutions referring to marriage are given in the appendix of the Code.

The constitution *"Altitudo"* refers to marriages of heathens who practice polygamy. The text seems to suppose that the husband as well as his several wives were all converted. If he remember not which was the first one he married, he shall take any one of them and contract marriage with her; if he remember which woman he married first, he shall dismiss the others and continue to live with the first. Dispensation is granted the converted heathens to marry, notwithstanding consanguinity, or affinity in the third degree.

The constitution *"Romani Pontificis"* deals with a case where a heathen has taken and dismissed several wives and married others. Finally he is converted and one of the wives he actually has is also converted. His first and only lawful wife has either been dismissed by him, or, if he still lives with her, it was not she that became a Catholic but one of the other wives. The Holy See allows that the man may continue to live in marriage with the one who became converted. Here dispensation is granted from the interpellation.

The constitution *"Populis"* gives faculties to the bishops, pastors, and priests, of the Society of Jesus to dispense from the interpellation in the cases of converts in Angola, Ethiopia, Brazil, and regions of India, who before Baptism were married and whose partners in marriage were carried off into slavery, or otherwise separated, so that they could not easily be interpellated, or, if interpellated, did not reply within the time fixed for the answer, so that they may lawfully marry a Catholic of any Rite. If afterwards it should become known that the other party had become a Catholic by the time the second marriage took place, or that he had had no chance to reply to the interpellation, the second marriage is nevertheless to be considered firm and valid. (Canon 1125.)

969. The bond of the first marriage contracted in infidelity

is solved only when the converted party actually contracts a new and valid marriage. (Canon 1126.)

970. In doubtful cases the Pauline privilege enjoys the favor of law. (Canon 1127.)

Article II. Separation from Bed and Board.

971. The married couple is obliged to live together in conjugal relations, unless a just cause frees them from this obligation. (Canon 1128.)

972. For reason of adultery of one party, the other has the right to solve even for all times the community of life, though the marriage bond remains, unless the other consented to the crime, or was the cause of it, or expressly, or tacitly, condoned it, or, finally, committed the same crime himself, or herself.

Tacit condoning of the crime consists in this that the innocent party, after having become certain of the crime, nevertheless continues to live with the other in marital relations; such the law presumes to be the case, unless the innocent party within six months either expel or leave the guilty partner, or bring legal accusation against him, or her. (Canon 1129.)

973. The married person who, either upon sentence of the judge, or by his or her own authority lawfully leaves the guilty party, has no longer obligation to again admit the adulterer to conjugal life; the innocent party, however, has the right to admit the guilty partner, and to oblige him, or her, to return, unless he or she has in the meantime, with the consent of the innocent party, embraced a state of life contrary to marriage. (Canon 1130.)

974. Other reasons for separation: if one party joins a non-Catholic sect; or educates the offspring as non-Catholics; or leads a criminal and despicable life; or creates great bodily or spiritual danger to the other party; or if through cruelties he or she makes living together too difficult, and other such reasons, which are to the innocent party so many legal causes to leave the guilty party by authority of the Ordinary of the diocese, or also by private authority, if the guilt of the other party is certain beyond doubt, and there is danger in delay.

In all these cases the common life must be restored when the reason for the separation ceases; if, however, the separation

was pronounced by the bishop either for a time, or indefinitely, the innocent party is not obliged to return except when the time specified has elapsed or the bishop gives orders to return. (Canon 1131.)

975. After the separation, the children are to be placed in charge of the innocent party, and if one of the parties is a non-Catholic the Catholic party is to have charge over them, that they may be raised as Catholics, unless the Ordinary decides differently for the sake of the welfare of the children, always safeguarding their Catholic education. (Canon 1132.)

CHAPTER XI.

Validation of Marriage.

Article I. Simple Validation.

976. In order to validate a marriage which is invalid on account of some diriment impediment, there is required either that the impediment ceases or is dispensed, and that at least the party conscious of the impediment renews the consent.

This renewal of consent is required by ecclesiastical law for validity of the marriage, although in the beginning both parties gave their consent and did not afterwards revoke it. (Canon 1133.)

977. The renewal of consent must be a new act of the will for the marriage that is known to have been invalid from the beginning. (Canon 1134.)

978. If the impediment is public, the consent must be renewed by both parties, in the form prescribed by law.

If it is occult and known to both parties, it suffices that the consent be renewed privately and secretly by both parties.

If it is occult and known only to one party, it suffices that the party who knows of the impediment, privately and secretly renews the consent, provided the other party continues in its consent. (Canon 1135.)

979. Marriage which is invalid on account of want of consent is validated if the party which did not consent does now give the consent, provided the consent of the other party perseveres.

If the defect of consent was merely internal, it is sufficient that the party who did not consent now gives consent by an internal act.

If the want of consent was manifested also outwardly it is necessary to renew the consent outwardly, either in the form prescribed by law, in case the want of consent was public, or in some private and secret but outward manner if the want of consent was occult. (Canon 1136.)

980. Marriage which is null and void on account of the want of the prescribed form, must be validated by contracting in the form required by law. (Canon 1137.)

Article II. Sanatio in Radice.

981. The *sanatio in radice* of marriage is its validation which imports, besides a dispensation from, or a cessation of, an impediment, a dispensation from the law of renewing the consent, and a retro-action, by fiction of law, in reference to the canonical effects in the past state while the union was invalid.

The validation takes place at the moment of granting of this favor. The retro-action, however, is to be understood to reach back to the beginning of the marriage, unless it is expressly stated otherwise in the rescript.

The dispensation from the law of renewing the consent can be given if one only or both parties are ignorant of the impediment. (Canon 1138.)

982. Any marriage contracted with the consent of both parties which would naturally suffice, but which consent is juridically ineffective on account of a diriment impediment of ecclesiastical law, or on account of want of the prescribed form, can be validated by the *sanatio in radice,* provided the consent perseveres.

Marriage contracted under an impediment of the natural or the Divine law is not validated by the Church by means of the *sanatio in radice,* though the impediment should have ceased afterwards, not even from the moment of the cessation of the impediment. (Canon 1139.)

983. If either in both or in one party consent has ceased to exist, the marriage cannot be validated by the *sanatio in radice,* and this is true both, in case there was no consent from the beginning, and also when it was first given and then revoked.

If consent was wanting in the beginning but was given later on, the *sanatio in radice* can be applied from the moment that consent was given. (Canon 1140.)

984. The *sanatio in radice* can be granted by the Holy See alone. (Canon 1141.)

CHAPTER XII.

Second Marriage.

985. Though chaste widowhood is more honorable, second and further marriages are valid and licit, provided that, according to Canon 1069, §2, the dissolution of the first marriage is proved. (Canon 1142.)

986. The woman who received the nuptial blessing once, cannot in a subsequent marriage again receive it. (Canon 1143.)

TITLE VIII.

The Sacramentals.

987. Sacramentals consist of sacred objects and actions which the Church, in imitation of the Sacraments to a certain extent, makes use of for the purpose of obtaining by her intercession favors, especially spiritual ones. (Canon 1144.)

988. The Holy See alone has the right to constitute new sacramentals, authentically interpret those in use, abolish or modify any of them. (Canon 1145.)

989. The legitimate minister of the sacramentals is the cleric who has received faculty to bestow them, and who has not been forbidden by the competent ecclesiastical authority to exercise this faculty. (Canon 1146.)

990. Consecrations no one can validly perform who is not a consecrated bishop, unless this faculty is given one either by law or by indult of the Holy See.

Benedictions, with the exception of those reserved either to the Roman Pontiff, or the bishop, or others, may be given by any priest.

A reserved benediction given by a priest without the necessary faculty, is illicit but valid, unless in the reservation the Holy See explicitly states that it cannot validly be given except by those to whom it is reserved or by those having special faculties.

Deacons and lectors can validly and licitly give only those blessings which are explicitly permitted to them by law. (Canon 1147.)

991. In the preparation and administration of the sacramentals the rites prescribed by the Church must be accurately observed.

Consecrations and blessings, both constitutive and invocative, are invalid if the formula prescribed by the Church is not employed. (Canon 1148.) *Invocative* benedictions are those by which God's blessing is called upon a person, object or place, e. g. blessing of infant, of edibles, of a house; *constitutive* are those benedictions which render a person, object or place sacred, e. g. blessing of an abbot, church, sacred vessels.

992. Blessings are, first of all, to be given to Catholics; they may also be given to catechumens, and, where there is no prohibition of the Church, also to non-Catholics to obtain the light of faith and together with it bodily health. (Canon 1149.)

993. Consecrated objects, and objects rendered sacred by blessing, must be treated with reverence, and they are not to be used for profane purposes nor for purposes for which they are not intended, though these objects be owned by private individuals. (Canon 1150.)

994. No one who has the power to pronounce exorcisms can lawfully read them over those possessed unless he has received special and explicit permission from the bishop.

This faculty should be granted by the bishop only to a priest who is distinguished for prudence and holiness of life. The priest shall not pronounce the exorcism until he has ascertained by prudent investigation that the person is really possessed by the devil. (Canon 1151.)

995. Exorcisms can be pronounced by the authorized ministers not only over the faithful but also over catechumens, over non-Catholics and excommunicated persons. (Canon 1152.)

996. The exorcisms which occur in Baptism and in consecrations and blessings may be pronounced by the very same ministers who have the right to employ these sacred rites. (Canon 1153.)

PART II.

SACRED PLACES AND SEASONS.

SECTION I.

Sacred Places.

997. Sacred places are those which are blessed or consecrated either for Divine worship or for the burial of the faithful,

according to the rites prescribed by the approved liturgical books. (Canon 1154.)

998. The consecration of any place, though it belong to the regulars, pertains to the Ordinary of the diocese or territory where such place is situated, provided the Ordinary has episcopal consecration; the vicar general needs a special mandate of the bishop. Cardinals have the privilege to consecrate the church and altars of their title.

The Ordinary of the territory, though not possessed of episcopal dignity, may give faculty to any bishop of the same Rite to perform consecrations in his territory. (Canon 1155.)

999. The right to bless a sacred place belongs to the Ordinary of the place if there is question of places belonging to the secular clergy, or to non-exempt religious, or to exempt lay Orders; if it is a place belonging to a clerical exempt religious body the major superior has the right to bless the place; both the Ordinary of the diocese and the major superior may delegate another priest for the blessing. (Canon 1156.)

1000. Notwithstanding any privilege, nobody may consecrate or bless a sacred place without the consent of the Ordinary. (Canon 1157.)

1001. A document of consecration or blessing shall be drawn up, one copy to be kept in the episcopal Curia, another in the archives of the respective church. (Canon 1158.)

1002. The consecration or blessing of any place is proved sufficiently by one absolutely trustworthy witness, if nobody else's rights are thereby injured.

If there is legal proof of consecration or blessing, neither can be given again; in doubtful cases they may be repeated *ad cautelam*. (Canon 1159.)

1003. The sacred places are exempt from the jurisdiction of the civil authorities, and in them the legitimate ecclesiastical authority freely exercises its jurisdiction. (Canon 1160.)

TITLE IX.

Churches.

1004. By the term church is meant a sacred building dedicated to Divine worship, principally for the purpose that it serve all the faithful for the exercise of public worship. (Canon 1161.)

1005. No church shall be erected without explicit permission in writing from the Ordinary, which permission or consent the vicar general cannot give without a special mandate.

The Ordinary shall not give his consent unless he prudently foresees that the necessary means for the building and maintenance of the new church, for the support of the necessary ministers and the expenditures of the cult, will not be wanting.

In order that the new church may not injure churches already established without proportionate spiritual benefit of the faithful, the Ordinary before giving consent for the building of a new church shall hear the rectors of neighboring churches who are concerned. Canon 1676 gives to the parties who think themselves injured by the erection of a new church or other institution the right to object, and from the moment protest is made operations must come to a stop until a decision has been reached in the ecclesiastical court.

Religious who have obtained permission from the Ordinary to establish themselves in the diocese or in a city, must, before they build a public oratory or church, obtain approval of the location from the bishop. (Canon 1162.)

1006. The blessing and laying of the cornerstone of a church belongs either to the Ordinary or to the major religious superior, the same as the blessing of a sacred place, according to Canon 1156. (Canon 1163.)

1007. The Ordinaries should take care to have the churches built acording to the approved traditions of ecclesiastical architecture, and in conformity with the laws of sacred art.

In a church there must be no door or window opening into a house of lay persons. The space in the basement or above the church shall not be used for purely profane purposes. (Canon 1164.)

1008. Divine worship cannot be held in a new church before it has been solemnly consecrated, or at least blessed.

If it can be foreseen that the church will be converted to profane purposes, the Ordinary should not give his consent for the building of the same, and if it has already been built, he shall neither consecrate nor bless it.

The solemn consecration ought to be given to cathedral churches and, as far as possible, to collegiate, religious and parochial churches.

A church built of wood, or of iron or other metal, may be blessed but it cannot be consecrated.

The altar may be consecrated without consecration of the church. In the consecration of a church, at least the major altar, and if it was already consecrated previously, another altar, must be consecrated in the ceremony of its consecration. (Canon 1165.)

1009. The consecration of churches may be held any day. Sundays and holidays of obligation, however, are more becoming for this ceremony.

The consecrating bishop and those who ask for the consecration must observe the fast the day before the consecration.

When the church or an altar is consecrated, the officiating bishop, though he has no jurisdiction in the territory, concedes an indulgence of one year to those who visit the church or the altar on the day of consecration, and on the anniversary fifty days if a bishop consecrates, one hundred days if an archbishop, two hundred days if a Cardinal. (Canon 1166.)

1010. The feast of the consecration of a church is to be kept annually according to the liturgical laws. (Canon 1167.)

1011. Each church which is either blessed or consecrated shall have its title, which it is forbidden to change afterwards.

The feast also of the title of the church is to be observed each year, according to the liturgical laws.

Churches cannot be dedicated in honor of beatified persons without permission of the Holy See. (Canon 1168.)

1012. It is desirable that each church have bells, by which the faithful may be invited to Divine worship and other religious celebrations.

The church bells must be either consecrated or blessed, according to the Rite of the approved liturgical books.

The use of the church bells is exclusively under the jurisdiction of the authorities of the Church.

With the exception of conditions stipulated by the donor of a church bell with approval of the Ordinary, the bells must not be rung for merely profane purposes, except in case of necessity, or with the permission of the Ordinary, or in accordance with legitimate custom.

In reference to the consecration or the blessing of church

bells, the rules of Canons 1155 and 1156 shall be observed. (Canon 1169.)

1013. The church does not lose its consecration or blessing unless it was totally destroyed, or the larger part of the walls collapsed, or it was reduced to profane purposes by authority of the Ordinary, as provided by Canon 1187. (Canon 1170.)

1014. In the sacred edifice which has been legitimately blessed all ecclesiastical rites may be performed, safeguarding the rights of parochial churches, and rights acquired by privilege, and legitimate customs. The Ordinary may especially fix the hours for Divine worship that they may not interfere with other churches. In churches of exempt religious the bishop may not fix the hours for services, except in cases where the religious have no parish church and their services might interfere with the catechetical and Gospel instructions in the parish church of the place. (Canon 1171.)

1015. Churches are desecrated only by the crimes here enumerated, if they are certain, notorious, and committed in the church itself: (1) the crime of homicide; (2) sinful shedding of blood in considerable quantity; (3) godless and sordid purposes for which the church was used; (4) burial of an infidel, or of a person excommunicated by condemnatory or declaratory sentence.

If the church is desecrated, the cemetery adjoining the church is not thereby desecrated, and *vice versa.* (Canon 1172.)

1016. In a desecrated church it is forbidden to hold Divine worship, to administer the Sacraments and to have funeral services before it is reconciled.

If the desecration happens during Divine services they shall immediately be discontinued; if during Holy Mass, before the beginning of the canon or after the communion, Mass must be discontinued at once, otherwise the priest shall continue until the communion. (Canon 1173.)

1017. The desecrated church shall be reconciled as soon as possible with the sacred ceremonies prescribed in the approved liturgical books.

If the desecration of the church is doubtful, it may be reconciled *ad cautelam.* (Canon 1174.)

1018. A church which has been desecrated by the burial of an excommunicated or of an unbaptized person, shall not be re-

conciled before the body is removed, if the removal can be accomplished without grave inconvenience. (Canon 1175.)

1019. A church that is blessed can be reconciled by its rector, or by any other priest with at least the presumed permission of the rector.

The reconciliation of a consecrated church belongs to either the bishop or the major religious superior, according to Canon 1156.

In case of grave and urgent necessity, if the bishop cannot be approached, the rector of a consecrated church may reconcile it, notifying the Ordinary afterwards. (Canon 1176.)

1020. The reconciliation of a blessed church can be done with ordinary holy water. The reconciliation, however, of a consecrated church is to be done with holy water specially blessed for that purpose with the ceremonies prescribed by the liturgical laws; it may be blessed not only by the bishop but also by the priest who reconciles the church. (Canon 1177.)

1021. All persons concerned must see to it that such cleanliness is observed in church as is becoming to the house of God. Business transactions and fairs and sales, though held for a pious purpose, shall be kept away from the church, and, in general, everything that is not in accordance with the sanctity of the place. (Canon 1178.)

1022. The churches enjoy the right of refuge, so that a criminal who has fled into it may, except in urgent necessity, not be taken out of it without the permission of the Ordinary, or at least of the rector of the church. (Canon 1179.)

1023. The title of Basilica cannot be given to any church except by Apostolic indult, or by immemorial custom, and its privileges likewise are derived either from custom or from indult of the Holy See. (Canon 1180.)

1024. The admission to the sacred functions in church must be absolutely gratuitous, all contrary custom being disapproved. (Canon 1181.)

1025. The administration of goods intended for repairs and decoration of the church, and conducting of services, belongs, with the exception of special cases and privileges, to the Ordinary together with the Chapter if there is question of the cathedral church, but to the collegiate Chapter if the church is collegiate; and to the rector in the case of other churches. Canons

1519-1528 concerning the administration of church property must likewise be observed.

The offerings made for the benefit of the parish, or the mission, or a church situated within the limits of the parish or mission, are administrated by the pastor of the church or by the rector of the mission, unless there is question of churches which have an administration of their own, distinct from that of the parish or mission, or the special law or legal custom rule differently.

The pastor, missionary, rector of a church, both secular and religious, must administrate the offerings in accord with the regulations of the sacred Canons and give account thereof to the Ordinary of the place, as provided by Canon 1525. (Canon 1182.)

1026. If others, either clerics or laymen, are admitted to the administration of the goods of any church, they shall all act as an administrative council under the presidency of the ecclesiastical administrator, mentioned in the preceding Canon, or his delegate.

The members of the administrative board are to be chosen by the Ordinary or his delegate, unless special laws provide otherwise, and they can be removed by him for a grave reason. (Canon 1183.)

1027. The administrative council is to care for the proper administration of the church revenues, according to Canons 1522 and 1523, but they may not interfere in any way in all those things that belong to the spiritual care of the parish, especially:

1. the exercise of worship in the church;

2. how and when to ring the church bells, the maintaining of order in church and in the cemetery;

3. to determine the manner of prayer, announcements and other affairs belonging in any way to Divine worship and the solemnity of the same;

4. the care of altars, communion rail, pulpit, organ, place for the choir, pews, offering-boxes and other objects belonging to the exercise of religious worship;

5. the judgment as to the fitness of sacred utensils and other things destined either for use in the Divine worship, or for the decoration of church and sacristy;

6. the writing and keeping of the church records and documents belonging to the archives of the parish. (Canon 1184.)

1028. The sacristan, singers, organist, choir boys, workmen for the cemetery, and all others serving the church, are appointed, depend on, and can be dismissed by no one but the rector of the church, saving lawful customs and agreements, and the authority of the Ordinary. (Canon 1185.)

1029. Unless there are special legal customs, or agreements, or an obligation placed on individuals by the civil law, the obligation of maintaining the cathedral church building rests with the persons here mentioned in the following order:

1. if the church as such has revenues, these are to be used for repairs of the church edifice, but the revenues necessary to carry on Divine worship and the ordinary administration of the church must not be touched;

2. the bishop and the canons of the cathedral are held to defray the expenditures for repairs in proportion to their income, but the salary that is considered necessary for their proper living must not be attached;

3. if the two preceding sources fail, the people of the diocese are to defray the repairs of the cathedral, but the Ordinary should by persuasion, rather than by force, induce the people to furnish according to their means the necessary funds for the cathedral.

The duty of repairing the parish church rests with the following in this order: (1) the revenues of the church itself; (2) the patron; (3) those who derive some income from the church, according to the rate fixed by the Ordinary; (4) the parishioners, who, however, should be induced by persuasion rather than by strict command.

These rules with proper proportion should be observed also in reference to other churches. (Canon 1186.)

1030. If a church is so dilapidated that it cannot at all be used for Divine worship, and if all means to repair it are wanting, the Ordinary may turn it to some decent profane use; the obligations with their respective funds, for instance, of foundation Masses, and the title of the parish, if a parochial church, shall be transferred to another church appointed by the Ordinary. (Canon 1187.)

TITLE X.

Oratories.

1031. An oratory is a place destined for Divine worship, not, however, with the principal object of serving the faithful at large as a house of worship.

The oratory is called (1) *Public,* if it has been erected indeed principally for the convenience of a body of men, or also for private individuals, but in such manner that all the faithful have the right to worship there, which right must be safeguarded to them by law to freely approach the oratory at least at the time of Divine services. (2) *Semi-public,* if it has been erected for the convenience of some community or a body of the faithful who meet there, so that not everybody has the right to enter the place. (3) *Private* or *domestic,* if erected in a private house for the benefit of some family or of a private individual. (Canon 1188.)

1032. The oratories in the houses of Cardinals and bishops, even titular ones, though private, have nevertheless all the rights and privileges given by law to semi-public oratories. (Canon 1189.)

1033. The small chapels erected in a cemetery by private individuals over their burial places have the nature of private oratories.

1034. Public oratories are governed by the same laws as churches.

If, therefore, a public oratory has been dedicated to the public worship of God by blessing or consecration, under the authority of the bishop of the diocese in conformity with Canons 1155 and 1156, all sacred functions can take place there, except such that the rubrics do not allow in oratories. (Canon 1191.)

1035. Semi-public oratories cannot be erected without the permission of the Ordinary.

The Ordinary shall not give this permission before he has inspected, either in person or through some one else, the place where the semi-public oratory is to be established, and has convinced himself that the place is in proper condition for the purpose.

Once the permission has been granted, the place cannot be turned to profane purposes without the authority of the same Ordinary.

In colleges and other institutions for the education of youth, in highschools, castles, barracks of soldiers, prisons, hospitals, etc., there should not be erected other minor oratories besides the principal one, unless, according to the judgment of the Ordinary, necessity or great utility make their erection advisable. (Canon 1192.)

1036. In semi-public oratories legitimately erected all sacred functions can be held except such that the rubrics or the orders of the bishop exclude. (Canon 1193.)

1037. In private chapels in cemeteries, mentioned in Canon 1190, the Ordinary may permit, also habitually, the celebration of several Masses; in other private oratories he can allow only one Mass for some extraordinary occasion and not habitually. The Ordinary shall not give this permission except in conformity with Canon 1192, § 2. (Canon 1194.)

1038. In private oratories which have received the indult of the Holy See to have Mass said there, the Ordinary shall visit and approve of the place according to Canon 1192, § 2; this having been done, one low Mass may be said there each day with the exception of the more solemn feasts of the Church; other ecclesiastical functions shall not be held there.

The Ordinary may also for good reasons, other than those for which the indult was granted, allow Holy Mass on the more solemn feasts *per modum actus,* which means to say, not perpetually but by way of exception in a particular case. (Canon 1195.)

1039. Domestic oratories cannot be consecrated or blessed after the manner of churches.

Domestic and semi-public oratories may either be blessed with the *benedictio loci* of the Ritual or not at all, but they must be reserved exclusively to Divine worship and may not be used for domestic purposes. (Canon 1196.)

TITLE XI.

Altars.

1040. In the liturgical sense there is understood:

1. By the term *immovable* or *fixed* altar, the upper table together with its support, consecrated as a whole.

2. By the term *movable* or *portable* altar, the stone, as a

rule small in size, which alone is consecrated and which is called *portable altar stone,* or *sacred stone;* or also the whole altar with table and support, which was, however, not consecrated as a whole.

In consecrated churches at least one altar, principally the main altar, must be immovable. In blessed churches all the altars may be movable. (Canon 1197.)

1041. The table of an immovable altar, as well as the portable altar stone, must consist of one piece of natural solid stone.

In the immovable altar the stone table must cover the entire altar and must be properly joined to the support. The support must be of stone or at least the sides or columns on which the table rests must be of stone.

The portable altar stone must be sufficiently large to hold the host and the larger part of the base of the chalice.

In the immovable altar, as well as in the portable one, there must be the sepulchre containing the relics of saints as prescribed by the liturgical laws, closed with a stone. (Canon 1198.)

1042. In order that Holy Mass may be celebrated on such an altar, it must be consecrated according to the laws of liturgy, either as a whole in case of immovable altars, or the altar stone in case of movable altars.

Every bishop, besides persons specially privileged, may consecrate portable altar stones. In reference to the consecration of immovable altars the law of Canon 1155 is to be observed.

The consecration of an immovable altar without the consecration of the church may take place any day; it is more becoming, however, to consecrate them on a Sunday, or a holiday of obligation. (Canon 1199.)

1043. The immovable altar loses its consecration if the table or *mensa* is separated from the support even for a moment's time, in which case the Ordinary can allow a priest to again consecrate the altar with the shorter rite and formula.

The immovable altar, as well as the portable altar stone, lose their consecration:

1. if they are considerably broken, either for reason of the size of the break, or for reason of the place of anointing;

2. if the relics are removed, or the cover of the sepulchre is broken or removed, excepting the case where either the bishop or his delegate remove the cover in order to fasten or repair it, or to substitute another, or to inspect the relics.

A slight break of the cover does not induce desecration, and any priest can fill the crack with cement.

The desecration of the church does not carry with it the desecration of the immovable or portable altars, and *vice versa.* (Canon 1200.)

1044. Just as the church has its title so should also at least every immovable altar of the church have its own title.

The primary title of the main altar should be the same as the title of the church.

With the permission of the Ordinary the title of a movable altar may be changed, not, however, that of the immovable altar.

Altars cannot be dedicated to the Blessed, not even in the churches and oratories to which their office and Mass is conceded, without permission of the Holy See. (Canon 1201.)

1045. Immovable as well as portable altars must serve only for Divine services and specially for Holy Mass to the exclusion of any use for profane purposes.

Under the altar bodies are not to be buried; bodies which perhaps are buried near an altar must at least be three feet away from the altar, otherwise it shall not be lawful to say Holy Mass on that altar until the body has been removed. (Canon 1202.)

TITLE XII.

Ecclesiastical Burial.

1046. The bodies of the faithful must be buried; cremation is forbidden.

If any one has in any manner ordered his body to be cremated, it shall be unlawful to execute the desire; if this order has been attached to a contract, last will, or any other act, it is to be considered as not added. (Canon 1203.)

1047. Ecclesiastical burial consists in the transfer of the body to the church, the funeral services held over the same in church, and the depositing of it in the place lawfully appointed for the burial of the faithful departed. (Canon 1204.)

CHAPTER I.

Cemeteries.

1048. The bodies of the faithful are to be buried in a cemetery which has been blessed according to the rites given in

the approved liturgical books, either with the solemn or simple blessing by the persons mentioned in Canons 1155 and 1156.

In churches bodies shall not be buried except those of residential bishops, abbots or prelates *nullius* in their own churches, or of the Roman Pontiff, royal personages and Cardinals. (Canon 1205.)

1049. The Catholic Church has the right to possess her own cemeteries.

Where this right of the Church is violated without hope of regaining the same, the Ordinaries should take care that the cemeteries belonging to the State are blessed, if those to be buried there are for the greater part Catholics, or at least that the Catholics may have a part of the cemetery reserved for themselves, which part is to be blessed.

If even that much cannot be obtained, the individual graves ought to be blessed according to the ritual, each time the body of a Catholic is buried. (Canon 1206.)

1050. The laws of the Canons concerning the interdict, violation, and reconciliation of churches, are to be applied also to cemeteries. (Canon 1207.)

1051. The individual parishes should have their own cemeteries, unless the Ordinary should appoint one common cemetery for several parishes.

The exempt religious may have a cemetery of their own, distinct from the common cemetery.

Also other associations and private families may be permitted by the bishop to have a special burial place, apart from the common cemetery, to be blessed like the cemetery. (Canon 1208.)

1052. In parochial cemeteries the faithful may with the written permission of the Ordinary, and in cemeteries proper to some ecclesiastical body with the written permission of the superior of that organization, construct for themselves and their relations special burial places; these they may, with the consent of the Ordinary or the superior, also convey to others.

The burial place for priests and clerics should, where it can be done, occupy a space, separate from the laity, in the more prominent part of the cemetery; moreover, where it can be conveniently so arranged, a place should in this space be set apart for priests, and another for inferior ministers of the Church.

The bodies of infants should likewise be buried in a plot specially set apart for them, if it can be conveniently arranged. (Canon 1209.)

1053. Every cemetery should be well enclosed on all sides and carefully guarded. (Canon 1210.)

1054. The Ordinaries of dioceses, and the pastors and superiors concerned, should see to it that in cemeteries there are not placed epitaphs, eulogistic inscriptions, and ornaments, out of harmony with Catholic faith and piety. (Canon 1211.)

1055. Besides the blessed cemetery there should be, if possible, a separate place well enclosed and guarded, where the bodies of those are to be buried to whom ecclesiastical burial was denied. (Canon 1212.)

1056. The body should not be buried, especially in cases of sudden death, until after such a length of time that is sufficient to remove all doubt of real death. (Canon 1213.)

1057. Without the permission of the Ordinary it shall not be lawful anywhere to exhume a body which had received by the Church its final burial.

The Ordinary shall not allow to exhume a body unless it can with certainty be distinguished from other bodies. (Canon 1214.)

CHAPTER II.

Transfer of the Body to Church, Funeral Services and Interment.

1058. Unless a grave reason stands in the way, the bodies of the faithful are to be brought to church, where the funeral services are to be held according to the rite prescribed in the approved liturgical books. (Canon 1215.)

1059. The church to which the body is to be taken is by law the church which was the proper parish church of the deceased, unless the deceased legitimately elected another church for his funeral.

If the deceased belonged to several parish churches, the parish in which he died is entitled to the funeral. (Canon 1216.)

1060. In a doubtful case as to the rights of another church the right of his own parish church always prevails. (Canon 1217.)

1061. If a person died outside his own parish church, the body is to be brought to his nearest proper parish church for the funeral services, when the journey can be made on foot without inconvenience; otherwise to the nearest parish church in the place where he died.

The Ordinary may for his diocese determine under what conditions the body is, or is not, to be taken to the proper parish of the deceased. If the parish where the person died is not in the same diocese with his own parish, the rules of the Ordinary of the place where the person died are to be observed.

Though it be inconvenient to take the body to the church where the funeral should take place, or to the place of burial, the family, the heirs, and others who are concerned, have the right, provided they pay the expenses, to take the body to the parish church of the deceased, or to the church he lawfully chose for his funeral. (Canon 1218.)

1062. If a Cardinal dies in the City of Rome, the body is to be transferred for the funeral services to the church which the Roman Pontiff will appoint; if he dies outside the City, he is to be buried from the church highest in rank in the place of his demise, unless he chose another certain church for his funeral.

The funeral of a residential bishop, also of those who are Cardinals, abbots and prelates *nullius,* is to take place, if it can be conveniently done, in the cathedral, abbatial or prelatial church; if the body cannot be brought there, the church first in rank in the place where he died is entitled to the funeral. If they have chosen a church from which they desired to be buried, that church is entitled to the funeral. (Canon 1219.)

1063. Residential beneficiaries of a church are to be buried from the church where they hold a benefice, unless they have chosen another. (Canon 1220.)

1064. Professed religious and novices are to be buried from the church or oratory of their house, or from any house of the Order or congregation; novices may choose another church for their burial. If religious die outside the house, their religious superior has the right to conduct the funeral procession from the place where he died to the church where the funeral services are to take place.

If the religious dies far away from any house of his Order, and the superior does not wish to transfer the body to a house of

the Order, which he is at liberty to do in accordance with Canon 1218, § 3, the religious is to be buried from the parish church where he died; a novice may choose another church he prefers.

The rules of this Canon concerning the novices apply also to servants of the religious who continually live within the enclosure of the religious house. If they die outside the religious house, their funeral is regulated by Canons 1216-1218. (Canon 1221.)

1065. The persons who stayed in any religious house or college either as guests, or for reason of education or health, and died there, as also those who die in hospitals, are to be buried from their own parish church or from the church they chose for their funeral, according to Canons 1216-1218; unless special law or privilege demand otherwise. Those who die in the seminary are, according to Canon 1368, to be buried by the rector who has parochial rights over the seminarians. (Canon 1222.)

1066. All the faithful, unless they are explicitly forbidden by law, as for instance professed religious, may choose a church from which they wish to be buried, as also the cemetery in which they desire to be interred.

The wife, and children who have reached the age of puberty, are in this matter of free choice of the funeral church absolutely independent of the authority of husband and father. (Canon 1223.)

1067. The free choice of the church for their funeral is forbidden:

1. to children who have not reached the age of puberty. Parents or guardians may even after the death of these children choose any church from which they wish to bury them;

2. to professed religious of any rank or dignity, except those who are bishops. (Canon 1224.)

1068. The election of a church for the funeral in order to be valid must needs fall on a church which has a right to perform funeral services, namely either a parish church or a church of regulars, or another having this right by special privilege. In churches of convents of nuns funeral services cannot be held for outsiders, except of those women who permanently lived within the enclosure, either as servants, or for reason of education, sickness, housing; the patron of a church may be buried from the church of which he is the patron. (Canon 1225.)

1069. A person may choose church or cemetery either him-

self or through another by his command; the election of the church for the funeral, or the mandate to choose for another, may be proved in any legal form.

If the election is to be made by another, he may make use of the mandate even after the death of the person who gave the mandate. (Canon 1226.)

1070. The religious and the secular clergy are strictly forbidden to induce any person to vow, or swear, or otherwise promise, to choose their church or cemetery for burial, or not to change such election. If the clergy act against this rule, the election of the dying person is null and void. (Canon 1227.)

1071. If interment in a cemetery other than that of the proper parish of the deceased was desired by him, he shall be buried there, if those in charge of the cemetery do not object.

If burial in the cemetery of the religious has been chosen by the deceased, the consent of the superior entitled by the constitution to grant such permission is required and suffices. (Canon 1228.)

1072. If a person has a burial place of his ancestry and does not choose another cemetery for burial, he is to be buried there if his body can be conveniently transferred, or parents, heirs, etc., wish to transfer him.

The wife shares the burial place of her husband, and, if she was repeatedly married, that of the last husband.

If there are several burial places of ancestors or of the husband, the family of the deceased or the heirs shall select the place of burial. (Canon 1229.)

1073. The proper pastor of the deceased has not only the right but also the duty, except in case of grave obstacle, to conduct the body from the house to the church, and to conduct the funeral services either in person or through another.

If the person died in the territory of another parish and the body can be easily brought to the deceased person's own parish church, the proper pastor may enter the parish of another pastor, notifying him of the fact, and conduct the funeral procession to his church.

If the funeral is to take place in a church of regulars, or another church exempt from the jurisdiction of the pastor, the proper pastor has the right to conduct the body from the house to the church under the procession cross of the church which has

the funeral. The rector of the church which has been chosen for the funeral by the deceased conducts the funeral services.

If the church chosen for the funeral is not exempt from the jurisdiction of the pastor, the celebration of the funeral services does not belong to the rector of the church, unless he can prove such right by special privilege, but to the pastor in whose territory the church is situated, provided the deceased was a subject of the pastor.

The bodies of religious women and of their novices who died in the house, are carried by the sisters to the limit of the enclosure; from there, if there is question of sisters not subject to the pastor, the chaplain conducts the body to the church or oratory of the convent and conducts the funeral services. If the sisters are not exempt from the jurisdiction of the pastor, he conducts the funeral services. Concerning sisters who die outside their house the general laws of the Canons shall be observed.

If a Cardinal, or a bishop, die outside the City of Rome in a city where there is a bishop's see, the first dignitary of the canons of the cathedral has, according to Canon 397, n. 3, the right to conduct the funeral.

If a body is sent to a place where the deceased did not have a parish of his own, nor where he chose a church for his funeral, the right to conduct all the funeral services, if they are to be held in that place, belongs to the cathedral church, or where there is no cathedral church, to the pastor of the church where the cemetery in which the body is to be buried is situated, unless the custom of the place or the diocesan statutes ordain otherwise. (Canon 1230.)

1074. The funeral services having been completed in the church, the body is to be interred in the cemetery of the same church, with the ceremonies prescribed by the rubrics of the liturgical books. The exceptions of Canons 1228 and 1229 in reference to the cemetery are to be observed.

He who conducted the funeral services in church, has also the right and duty, excepting only a grave case of necessity, to conduct, either in person or through another priest, the body to the cemetery. (Canon 1231.)

1075. The priest who conducts the funeral procession to the church, or to the cemetery, has the right to pass through the territory of another parish or diocese with stole and cross, without the permission of the pastor or the Ordinary.

If the body is to be buried in a distant cemetery, to which the body cannot conveniently be carried, the pastor or rector who conducted the funeral cannot claim the right to accompany the body outside the limits of the city or town. (Canon 1232.)

1076. The pastor cannot without a just and grave reason, to be approved by the Ordinary, forbid secular clergy, religious and pious societies invited by the family, or the heirs to assist at the funeral procession and at the services in church; the clergy of the church where the funeral services are held should first of all be invited.

Societies, and emblems, hostile to the church, shall under no circumstances be permitted at the funeral.

Those who assist at the funeral must respect the orders of the pastor in the arrangement of the funeral procession, saving each one's rights of precedence.

The clergy shall never carry the body of any lay person no matter what dignity he held, or to what family he belonged. (Canon 1233.)

1077. Ordinaries of dioceses shall, if such does not yet exist, draw up a schedule of funeral taxes or stipends for their territory, giving due consideration to the legitimate customs of particular places and the circumstances of persons and places. They shall consult the cathedral Chapters, or diocesan consultors, in making these regulations and if they think it advisable, they may also consult the deans and the pastors of the episcopal city. The schedule of taxes should for the various cases determine with moderation, and in such manner that all occasion for contention and scandal is removed, the rights of all concerned.

If in the schedule several classes of funerals are enumerated, the party who arranges for the funeral is to have a free choice. (Canon 1234.)

1078. It is strictly forbidden to every one to exact more than what the diocesan schedule allows for funerals and anniversaries.

The poor shall be given decent funeral services and burial free of charge, according to the laws of liturgy and the diocesan statutes. (Canon 1235.)

1079. Whenever any of the faithful are not buried from their own parish church, the proper pastor is to receive the parochial portion of the funeral offerings, unless the particular law

grants a privilege of exemption from this law, or if the deceased could not conveniently be brought to his parish church.

If a person had several proper parishes, from any of which he could have easily been buried, and the funeral was held in another church, the parochial portion is to be divided between the various proper pastors. (Canon 1236.)

1080. The parochial portion solely is to be subtracted from the sum fixed by the diocesan tariff for the funeral services and burial.

If for any reason on the day of burial there are only minor functions, and the first solemn service for the deceased is held within one month from the date of burial, the parochial portion shall be taken also for that service.

The quantity of the parochial portion is to be fixed by diocesan schedule; if the parochial church of the deceased and the church which has the funeral belong to two different dioceses, the quantity of the parochial portion is to be reckoned according to the schedule of the diocese where the funeral takes place. (Canon 1237.)

1081. After the funeral, the minister shall mark down in the record of the deceased the name and age of the person, the names of parents or husband, date of death, the priest who administered the last Sacraments, and what Sacraments were given, as also time and place of burial. (Canon 1238.)

CHAPTER III.

Persons to whom Ecclesiastical Burial must be Granted or Denied.

1082. Unbaptized persons must not be buried from a church, with the exception of catechumens who die without having, through no fault of theirs, received Baptism, and are therefore to be counted among those baptized.

All baptized persons are to receive ecclesiastical burial, unless they are explicitly deprived of it by law. (Canon 1239.)

1083. The following persons are to be deprived of ecclesiastical burial, unless they have before death given some signs of repentance:

1. notorious apostates from the Christian faith, and persons notoriously known to belong to a heretical or schismatical sect, or to the masons, and other societies of the same kind;

2. persons excommunicated or interdicted by condemnatory or declaratory sentence;

3. culpable suicides;

4. those dying in a duel or from wounds received in it;

5. those who have given orders to cremate their body;

6. all other publicly known sinners.

If in the foregoing cases some doubt arises, the Ordinary must be consulted if time permits. If the case remains doubtful, the body should be given ecclesiastical burial but in such a manner that scandal is avoided. (Canon 1240.)

1084. When ecclesiastical burial had to be denied to a person it is also forbidden to have for him any funeral Mass, anniversary, or other public funeral services. (Canon 1241.)

1085. If it can be done without serious inconvenience, the body of an *excommunicatus vitandus* which had, against the laws of the Canons, been buried in a sacred place, is to be exhumed with permission of the bishop, and to be buried in that part of the cemetery which is not blessed. (Canon 1242.)

SECTION II.

Sacred Seasons.

1086. Sacred seasons are the holidays and the days of fast and abstinence. (Canon 1243.)

1087. The supreme authority of the Church alone has the right to establish, transfer and abolish holidays of obligation, and days of fast and abstinence, for the universal Church.

Ordinaries of dioceses can for their territory appoint holidays of obligation, days of fast and abstinence only *per modum actus,* which means temporarily, not perpetually. (Canon 1244.)

1088. Not only the Ordinary but also the pastor may in individual cases and for good reasons dispense individual subjects or individual families, also outside his territory, and transients in his territory, from the obligation of keeping the holidays of obligation, and from fast or abstinence, or from both, fast and abstinence combined.

Ordinaries may also, for reason of great concourse of people on some special occasion, or for the sake of public health, dispense the whole diocese, or place, from the obligation of fast or of abstinence, or of both.

In clerical exempt religious communities the superiors have for the religious and all those persons mentioned in Canon 514, § 1, the same faculty as pastors. (Canon 1245.)

1089. The time of a holiday of obligation, as well as the day of fast or abstinence, is to be reckoned from midnight to midnight. For the gaining of indulgences Canon 923 makes special provision. (Canon 1246.)

TITLE XIII.

Holidays of Obligation.

1090. Holidays of obligation for the universal Church are only the following: All the Sundays, the feasts of Christmas, Circumcision, Epiphany, Ascension, Corpus Christi, Immaculate Conception, Assumption, St. Joseph, SS. Peter and Paul, and, All Saints'.

The patron feasts are no longer holidays of obligation, but the Ordinaries of dioceses can transfer the external solemnity to the next following Sunday.

If any of the above mentioned feasts have been lawfully abolished or transferred in some country, nothing should be done concerning these feasts without consulting the Holy See. In the United States four of these feasts are abolished as holidays of obligation, namely Epiphany, Corpus Christi, St. Joseph, and SS. Peter and Paul. (Canon 1247.)

1091. On holidays of obligation Holy Mass must be heard and the people must abstain from servile work and from legal actions; and unless legitimate custom or special indults make an exception, public sales, fairs and other public buying and selling are forbidden. (Canon 1248.)

1092. One may fulfil the obligation of hearing Mass by assisting at Holy Mass celebrated in any Catholic Rite, either in the open air or in any church, public or semi-public oratory, and in the private chapels in cemeteries spoken of in Canon 1190; in the oratories in private houses, however, only those to whom the privilege is granted by the Holy See can fulfill the duty of hearing Mass. (Canon 1249.)

TITLE XIV.

Fast and Abstinence.

1093. The law of *abstinence* forbids the eating of flesh meat and of broth made of meat, but does not exclude the use of eggs,

milk and the products of milk (namely cheese and butter), and any seasonings of food, even those made from the fat of animals. (Canon 1250.)

1094. The law of *fasting* ordains that only one full meal a day be taken, but does not forbid a small amount of food in the morning and in the evening. As regards the kind of food, and the amount, that may be taken, the approved customs of one's locality are to be observed.

One may partake of both fish and flesh meat at the same meal. The full meal may be taken in the evening and the collation at noon. (Canon 1251.)

1095. *Abstinence only* is enjoined on the Fridays throughout the year.

Fast and abstinence are prescribed on the following days: Ash Wednesday, the Fridays and Saturdays in Lent, Ember days, the Vigils of Pentecost, of the Assumption, of All Saints' Day, and of Christmas Day.

Fast only is ordained for all the other days of Lent.

On Sundays and holidays of obligation, except on a holiday in Lent, there is neither fast nor abstinence, and if a vigil that is a fastday falls on a Sunday the fast is not to be anticipated on Saturday but is dropped altogether that year. The Lenten fast and abstinence cease at twelve o'clock noon on Holy Saturday. (Canon 1252.)

1096. The foregoing Canons make *no change in particular indults;* they do not affect the obligations imposed by vow, either of individual persons or communities, nor alter the constitutions and rules of religious organizations and approved institutes of men or women living in community, even those without vows. (Canon 1253.)

1097. The law of *abstinence* binds all who have completed their seventh year of age.

The law of *fasting* binds all who have completed their twenty-first year until the beginning of their sixtieth year. (Canon 1254.)

In the matter of fast and abstinence days there remains some difficulty (1) in reference to the particular fastdays on Fridays in Advent which were of obligation in many dioceses in the United States, and (2) in regard to the faculties of the bishops for the benefit of soldiers in the army and navy and of working

people. A recent decree of the Consistorial Congregation, of April 25, 1918, seems to indicate that the Holy See desires uniformity of discipline also in the matter of fast and abstinence. To that end the rules for abstinence days have been considerably mitigated and for special occurrences Canon 1245, cited above, gives to bishops and pastors sufficient power to dispense from fast and abstinence.

The ten, five, three years' faculties, and the Brief of twenty-five years' faculties, are specially mentioned by the decree as abolished. The indult for working people had, moreover, become unnecessary since the Code makes liberal allowance for the use of flesh meat in Lent. Soldiers serving in army and navy usually received in the various countries special concessions, by which they were obliged to abstain only on a few days in the year from flesh meat. In the United States there were six of such days, namely, Ash Wednesday, the last three days of Holy Week and the vigils of the Assumption of the Blessed Virgin and of Christmas. Since it is almost impossible for soldiers in actual service to observe the law of abstinence, since they have to take the food dealt out to them, the Holy See will certainly continue to release them from this law of the Church. This seems also indicated in number 3 of the decree referred to above, namely, that the concessions obtained by the Ordinaries either on account of the present war, or for reasons of peculiar circumstances, are not included in this recall of faculties. In the formula of faculties, of the chaplains in the army and navy of the United States in the present war the following days are enumerated as fast and abstinence days for the men in military service: Ash Wednesday, Vigil of Christmas, Good Friday and the forenoon of Holy Saturday.

PART III.

DIVINE WORSHIP.

1098. To the blessed Trinity and to each of the three Persons, and to Christ our Lord also under the sacramental species, is due the cult of *latria;* to the blessed Virgin Mary the cult of *hyperdulia;* to the other saints reigning with Christ in heaven the cult of *dulia.*

To sacred relics and images is due the veneration and cult proper to the person to which the relics and images refer. (Canon 1255.)

1099. The cult which is exhibited, and offered to God, or to the Saints and Blessed, in the name of the Church by appointed ministers, in the form and manner prescribed by the Church, is called *public,* otherwise *private.* (Canon 1256.)

1100. The Holy See alone has the right to enact the form of the sacred liturgy, as well as to approve the liturgical books. (Canon 1257.)

1101. It is unlawful for the faithful to assist in any active manner, or to take part, in the sacred services of non-Catholics.

Merely passive or material presence may be tolerated on account of a civil office, or for the purpose of showing respect to persons, to be approved in doubtful cases by the bishop for grave reasons, at funerals of non-Catholics, at their marriages, and similar solemnities, provided there is danger of neither perversion nor scandal. (Canon 1258.)

1102. Prayers and pious exercises in churches or oratories shall not be permitted without the revision and express permission of the bishop of the diocese, who in more difficult cases shall submit the entire matter to the Holy See.

The Ordinary of the diocese cannot approve new litanies to be recited publicly. (Canon 1259.)

1103. The ministers of the Church must depend solely on the authority of the ecclesiastical superiors in the exercise of worship. (Canon 1260.)

1104. The Ordinaries should watch that in Divine worship the rules of the Sacred Canons are faithfully observed, and that neither in public nor in private worship, nor in the private lives of the faithful, any superstitious practices are introduced, or anything contrary to faith, or to the ecclesiastical tradition, or anything that has the appearance of sordid profit-making.

If the Ordinary publishes any regulations concerning these matters all his subjects are held to observe those rules, even the exempt religious, and he may visit their churches and public oratories for this purpose. (Canon 1261.)

1105. It is to be desired that, in harmony with the ancient discipline of the Church, the women should in church be separate from the men.

The men should assist at Divine services, either in church or outside of it, with uncovered heads, unless the approved customs of the people or peculiar circumstances demand the con-

trary; the women should assist in modest dress and with heads covered, especially when they approach the table of the Lord. (Canon 1262.)

1106. Magistrates may, according to their rank and dignity, have a special place in the church, in as far as the liturgical laws permit this.

Without the explicit permission of the Ordinary none of the faithful may have a pew in church reserved for himself and his family; the Ordinary should not give his consent except where there are enough pews to accommodate the rest of the people.

There is always the tacit understanding in these permissions that the Ordinary may at any time for a good reason recall the permission, no matter for what length of time individuals have held such pews. (Canon 1263.)

1107. Musical compositions rendered either by the organ, or other instruments, or voice, which contain anything lascivious and improper must absolutely be kept out of church; the liturgical laws concerning sacred music shall be observed.

Religious women, in as far as they are allowed by their constitutions and the laws of liturgy and of the bishop to sing in their own church or public oratory, shall occupy a place where they cannot be seen by the people. (Canon 1264.)

TITLE XV.

The Keeping and Cult of the Blessed Sacrament.

1108. The Blessed Sacrament may be kept in the following churches, if there is a person to guard it, and if the priest as a rule celebrates Holy Mass at least once a week in the place:

1. it must be kept in the cathedral church and in the principal church of an abbey and of a prelacy *nullius,* vicariate and prefecture apostolic, in every parochial and quasi-parochial church, and in a church attached to houses of exempt religious men and women;

2. it may be kept with the permission of the Ordinary in collegiate churches and in the principal, public or semi-public, oratory of religious houses and charitable institutions, as also in ecclesiastical colleges in charge of either the secular clergy or of

In other churches and oratories it may be kept only by indult religious.

of the Holy See. The Ordinary can for a good reason grant this permission to a church or public oratory only *per modum actus,* that is to say, for a special occasion, not perpetually.

No one is allowed to keep the Blessed Sacrament in his private house, or to carry it with him when travelling. (Canon 1265.)

1109. The churches in which the Blessed Sacrament is kept, especially parochial churches, should be open to the faithful for at least a few hours each day. (Canon 1266.)

1110. In a religious house, or pious institute, the Blessed Sacrament cannot be kept except in the church or principal oratory, and in the monasteries of nuns with solemn vows it cannot be kept inside the choir or the enclosure; all privileges to the contrary are revoked. (Canon 1267.)

1111. The Blessed Sacrament cannot habitually be kept on more than one altar of a church.

It should be placed in the most prominent and best ornamented place in church and, therefore, as a rule on the main altar unless another altar is more convenient and appropriate for the veneration and cult of this great Sacrament. The liturgical laws concerning the last three days of Holy Week are to be observed.

In cathedral, collegiate and conventual churches in which choral functions are conducted at the main altar, it is, as a rule, more convenient not to keep the Blessed Sacrament on the main altar but on a side altar, in order that the Blessed Sacrament may not be an impediment to such functions.

The rectors of churches should see to it that the altar of the Blessed Sacrament be above all others decorated and ornamented, so as to move the faithful to greater piety and devotion. (Canon 1268.)

1112. The Blessed Sacrament must be kept in an immovable tabernacle, placed in the middle of the altar.

The tabernacle should be beautifully constructed securely closed on all sides, properly ornamented in accordance with the liturgical laws, free from all other things, and guarded so well that there is no danger of profanation.

For a grave reason and with the approval of the bishop it is lawful to take the Blessed Sacrament out of the tabernacle over night and to keep it in a safer but decent place on a corporal, and with a light burning before it.

The key of the tabernacle in which the Blessed Sacrament is kept must be most carefully guarded; this is a grave obligation of conscience on the part of the priest who has charge of the church or oratory. (Canon 1269.)

1113. A sufficient number of particles for the Communion of the sick and of the faithful in general shall always be kept in a pyx of solid and respectable material, and it must be kept clean and well covered, and veiled with a veil of white silk. (Canon 1270.)

1114. Before the tabernacle in which the Blessed Sacrament is kept, there should burn at least one lamp day and night fed either with olive oil or bee's wax. Where olive oil is not easily obtainable, the bishop may according to his prudent judgment allow the use of other oils, which should, as far as possible, be vegetable oils. (Canon 1271.)

1115. The consecrated hosts, either for the Communion of the faithful or for the exposition of the Blessed Sacrament must be fresh and are to be renewed frequently, consuming the consecrated species as prescribed, so that there may be no danger of corruption. The instructions of the Ordinary in this matter must be faithfully observed. (Canon 1272.)

1116. Those whose work it is to give religious instruction to the faithful, shall not neglect to excite in their minds devotion towards the Blessed Eucharist and to admonish them to assist at Holy Mass and to visit the Blessed Sacrament not only on Sundays and holidays of obligation, but also frequently during the week. (Canon 1273.)

1117. In churches and oratories that have received permission to keep the Blessed Sacrament, private exposition, that is to say with the *ciborium,* can be held for any good reason also without permission of the Ordinary. Public exposition, that is to say, with the *ostensorium,* may be held in all churches on the feast of Corpus Christi and during the octave, both during Holy Mass and at vespers. At other times, public exposition may be held only for good and serious reasons, with permission of the bishop, and this permission is required also in churches of exempt regulars.

The exposition and reposition of the Blessed Sacrament may be done by either priest or deacon; the priest only can give benediction with the Blessed Sacrament; the deacon is not allowed to

give it except in the case where he, according to Canon 845, § 2, takes the holy viaticum to the sick. (Canon 1274.)

1118. The Forty Hours' Devotion shall as solemnly as possible be celebrated in all parochial and other churches where the Blessed Sacrament is habitually preserved on the days fixed by the bishop. Where the exposition cannot without great inconvenience or danger of irreverence be continued day and night for forty consecutive hours, the Ordinary should arrange that the exposition is held for several hours of the day on certain days. (Canon 1275.)

TITLE XVI

The Cult of the Saints, of Sacred Images and Relics.

1119. The veneration of the servants of God reigning with Christ, and of their relics and images, is good and useful; all the faithful should above all honor with filial affection the blessed Virgin Mary. (Canon 1276.)

1120. Only those servants of God may be publicly venerated who have been inserted by the Church in the catalog of the Saints or Blessed.

Those proclaimed Saints by the Church are to receive the cult of *dulia,* and they may be honored throughout the universal Church with any of the acts of that form of worship; the Blessed, however, cannot be venerated publicly except in the places and in the form specified by the Roman Pontiff. (Canon 1277.)

1121. The Saints of nations, dioceses, provinces, confraternities, religious organizations, and of other places and organizations, may laudably be chosen as patrons, and when the Holy See confirms such election they are constituted as the patrons; the Blessed cannot be chosen without a special indult of the Holy See. (Canon 1278.)

1122. No one is without the approval of the Ordinary allowed to place, or cause to be placed, in any church including those exempt, or in any other sacred places, an unusual picture.

The Ordinary shall not approve sacred images, to be exposed to the veneration of the faithful, that do not agree with the approved usage of the Church.

The Ordinary shall not allow in church and other sacred

places representations which are dogmatically incorrect, or are not executed with proper decency and respect, or may give to ignorant people an occasion of error.

If the images exposed for public veneration are to be solemnly blessed, such blessing is reserved to the Ordinary, who may, however, delegate a priest for that purpose. (Canon 1279.)

1123. Precious images, that is to say, such that are valuable for their antiquity, art or veneration, and exposed for public worship of the faithful in churches and public oratories, must, when in need of repair, not be restored without the written consent of the Ordinary, who shall, before giving the permission, consult experts in the matter. (Canon 1280.)

1124. Prominent relics and images of great value, and any relic or image which are honored by great veneration of the people, cannot validly be given away, nor be perpetually transferred to another church, without permission of the Holy See.

Prominent relics of Saints or Blessed are the entire body, or the head, arm, forearm, heart, tongue, hand, leg, or that part of the body in which the martyr suffered, provided it be entire and not small. (Canon 1281.)

1125. Prominent relics of Saints or Blessed may not be kept in private houses and private oratories without explicit permission of the Ordinary.

Small relics may be kept with due honor in the houses of the faithful, or carried on their persons. (Canon 1282.)

1126. Only those relics may be exposed to public veneration in any, even exempt, churches which are authenticated by document of a Cardinal, or the bishop of the diocese, or by another ecclesiastic who has by Apostolic indult the faculty to authenticate relics.

The vicar general cannot authenticate relics without a special mandate of the Ordinary. (Canon 1283.)

1127. The local Ordinaries should prudently withdraw from the veneration of the people relics which they do not know with certainty to be genuine. (Canon 1284.)

1128. If the document of authentication of sacred relics has been lost through civil disturbances, or for any other cause, the relics must not be exposed to public veneration until the

bishop has given his approval; the vicar general requires a special mandate of the Ordinary to act in this matter.

Relics venerated from ancient times are to continue to receive the same veneration, unless in some particular case it is known with certainty that they are false or supposititious. (Canon 1285.)

1129. The local Ordinaries shall forbid the discussion of questions concerning the authenticity of sacred relics, especially by words exciting ridicule and contempt of educated people, in sermons, books, papers and magazines intended for devotional purposes, when their authenticity is objected to from mere conjecture, or only probable reason, or prepossessed opinions. (Canon 1286.)

1130. Relics that are to be exposed must be enclosed in a case and sealed.

Relics of the Holy Cross must never be exposed to the veneration of the public enclosed in the same case with relics of the Saints, but must be placed in a separate case.

The relics of the Blessed must not without special indult be carried in processions, nor exposed in any other churches than those to which the Holy See has given the faculty to say their office and Mass. (Canon 1287.)

1131. The relics of the Holy Cross which the bishop may have in his pectoral cross become the property of the cathedral church at his death, to be transmitted to the succeeding bishop. If the deceased bishop had the government of several dioceses, the relic is to belong to the cathedral church of the diocese in which he died; if he died outside the diocese, to that diocese from which he last departed. (Canon 1288.)

1132. It is forbidden to sell sacred relics. The Ordinaries, deans, pastors and others having the care of souls shall watch that the sacred relics, especially those of the Holy Cross, are not sold together with the inheritance and with sale of other goods, nor pass into the hands of non-Catholics.

The rectors of churches, and others whose duty this is, shall zealously watch that the relics are not in any way profaned, or are lost through carelessness of people, or are kept in a manner showing want of proper respect. (Canon 1289.)

TITLE XVII.

Sacred Processions.

1133. By the term sacred processions are meant the solemn supplications made marching in order under the leadership of the clergy from one sacred place to another for the purpose of stirring up the devotion of the people, or to commemorate God's benefits and to thank Him, or to implore Divine help.

Ordinary processions are those held on fixed days of the year according to the rules of the liturgical books or the custom of the churches; *extraordinary* those appointed on other days for some public cause. (Canon 1290.)

1134. Unless immemorial custom or the circumstances of places demand, in the judgment of the bishop, otherwise, there shall be but one solemn and public procession through the streets of a town or city on the feast of Corpus Christi, to be held by the church first in rank of dignity. In this procession must take part all the secular clergy and the religious communities of men, also the exempt religious, and the confraternities of laymen. Regulars who perpetually live in strict enclosure, and those who are more than three miles from the town or city, need not come to the procession.

The other parishes and churches, secular or religious, may during the octave institute their own processions outside their church; where there are several churches, the Ordinary shall appoint for each the day, hour and course of the procession. (Canon 1291.)

1135. The Ordinary with the advice of the cathedral Chapter may for a public cause order extraordinary processions, at which, the same as at ordinary ones, all those spoken of in Canon 1291, § 1, must take part. (Canon 1292.)

1136. The religious, exempt or non-exempt, cannot hold processions outside their churches and cloister without the permission of the Ordinary, with the exception of the Corpus Christi procession spoken of in Canon 1291, § 2. (Canon 1293.)

1137. Neither the pastor nor anyone else is allowed without permission from the bishop to introduce new processions or to change or abolish the usual ones.

At the processions proper to any church all the clergy attached to that church must be present. (Canon 1294.)

1138. The Ordinary shall see to it that the processions are performed in good order, stopping all abuse that might have crept in, so that in these pious and religious acts proper sobriety and reverence may be observed by all. (Canon 1295.)

TITLE XVIII.

Sacred Utensils.

1139. The sacred utensils, specially those which are blessed or consecrated for use in the public worship of the Church, are to be carefully guarded in the sacristy of the church, or in another safe and decent place, and must not be used for profane purposes.

As prescribed by Canon 1522, § 2, § 3, an inventory shall be made and carefully kept of all the sacred utensils.

The material and form of the sacred utensils must be in conformity with the liturgical laws, with ecclesiastical tradition, and, as far as possible, with the laws of sacred art. (Canon 1296.)

1140. Those who are, according to Canon 1186, obliged to attend to the repairs of the church edifice are also to provide the necessary utensils for Divine worship, unless other provisions are made. (Canon 1297.)

1141. The sacred utensils, and all other objects perpetually destined for Divine worship, in the possession of a deceased Cardinal, who had his domicile in the City of Rome though he was a suburban bishop or an abbot *nullius,* belong to the papal treasury, no matter by what kind of revenue they were acquired, unless the Cardinal donated or willed them by testament to some church, public oratory, pious institution, or to an ecclesiastical or religious person. The rings and pectoral crosses, also those with sacred relics, are excepted from this rule.

It is to be desired that the Cardinal who wishes to make use of the faculty to donate or will his sacred utensils, should leave at least a part of them to the churches of which he held the title, administration or trust. (Canon 1298.)

1142. The sacred utensils of a deceased residential bishop, though vested with the Cardinalitial dignity, accrue to his cathedral church, with the exception of the rings and pectoral crosses with or without relics, and all sacred utensils of any kind which

can be proved to have been acquired by the deceased bishop with other than the funds of the diocese, and have not been turned over to the proprietorship of the church. The pectoral cross with relics of the Holy Cross must, according to Canon 1288, remain with the bishop's see for the use of the succeeding bishop.

If the deceased bishop ruled two or more dioceses in succession, or at the same time presided over two or more dioceses which had been united, or which were given to him for perpetual administration, each diocese having its own proper cathedral church, the sacred utensils of the bishop that are known to have been acquired by the funds of one only of these dioceses accrue to the cathedral of that diocese; otherwise they must be equally divided between the various cathedral churches, provided the revenues of the dioceses are not divided, but constitute perpetually only one *mensa episcopalis;* if the revenues of each cathedral are kept separate, the sacred utensils are to be divided between the several cathedral churches in proportion to the amount of revenue the bishop received from each church, and the length of time he presided over the churches.

The bishop is obliged to make an inventory in authentic form of the sacred utensils in which he should truthfully state when they were acquired, and point out distinctly those utensils which he did not obtain by church funds, but either bought with his own money or acquired by personal donations; otherwise the law presumes that all were acquired by church funds. (Canon 1299.)

1143. The rules of the preceding Canon are also to be applied to a cleric who obtained a secular or religious benefice in any church. (Canon 1300.)

1144. Cardinals, residential bishops and all other clerics are bound to take care that by a last will, or other document drawn up in the form recognized by civil law the canonical laws laid down in Canons 1298-1300 may have effect also in the civil courts.

Wherefore they shall in good time appoint, in a manner recognized by civil law, a person, according to Canon 380, who at their death shall take possession not only of the sacred utensils, but also of all books, documents, and all other goods belonging to the church, found in their house, and send them where they belong. (Canon 1301.)

1145. The rectors of churches and all others to whom the care of sacred utensils is entrusted shall see to it that they are kept in good condition. (Canon 1302.)

1146. The cathedral church must furnish the bishop gratuitously with the sacred utensils and all other objects he needs for the celebration of Holy Mass, and of other pontifical functions, even when he celebrates privately, not only in the cathedral church, but also in other churches of the episcopal city or its suburbs.

If a church is very poor the Ordinary can permit that a moderate fee is demanded of priests saying Holy Mass there, to cover the expenses for the sacred utensils and other things needed for Holy Mass.

The bishop, or by special mandate the vicar general and vicar capitular, has the right to define the amount of the fee and no one, not even exempt religious, are allowed to demand more.

The bishop should, if possible, define the fee for the whole diocese at the time of the synod, otherwise outside the synod with the advice of the Chapter. (Canon 1303.)

1147. The power of blessing those sacred utensils which must, according to the liturgical laws be blessed before they are used for their proper purpose, is given to:

1. all Cardinals and bishops;
2. local Ordinaries not having episcopal consecration, for the churches and oratories of their own territory;
3. pastors for the churches and oratories within the limits of their parish, and rectors of churches for their churches;
4. priests delegated by the Ordinary, within the limits of the delegation and the jurisdiction of the delegating Ordinary;
5. religious superiors, and priests of the same Order delegated by them, for their own churches and oratories, and for the churches of the nuns subject to them. (Canon 1304.)

1148. Sacred utensils that have been blessed or consecrated lose their blessing or consecration:

1. if they suffered such damage or change that they lost their original shape and are no longer fit for their purpose;
2. if they have been used for unbecoming purposes, or have been exposed for public sale.

Chalice and paten do not lose their consecration by the wearing off or renewal of the gold plating, saving the grave obliga-

tion of having the gold plating renewed when worn out. (Canon 1305.)

1149. Care must be taken that the chalice and paten, and unwashed purificators, palls and corporals, are not touched except by clerics or those who have the custody of these utensils.

The purificators, palls and corporals used in the Holy Mass shall not be given to lay persons, even religious, to be washed until they have first been washed by a cleric in major orders; the water of the first washing shall be poured into the *sacrarium,* or, if there is none, into the fire. (Canon 1306.)

TITLE XIX.

Vow and Oath.

CHAPTER I.

Vow.

1150. A vow is a free and deliberate promise to God of something possible and better, and it imposes an obligation by reason of the virtue of religion.

All persons having sufficient use of reason in proportion to the object of the vow, may make a vow unless they are forbidden by law.

A vow made from grave, unjust fear is invalid by the very fact. (Canon 1307.)

1151. A vow is called *public,* if it is accepted in the name of the Church by a legitimate ecclesiastical superior; otherwise it is *private;*

Solemn, if recognized as such by the Church; otherwise it is *simple;*

Reserved, if dispensation from it can be given only by the Holy See;

Personal, if an act of the person making the vow is promised; *Real,* if some object is promised; *Mixed,* if it partakes of the nature of both, personal and real vow. (Canon 1308.)

1152. Of private vows there are reserved to the Holy See these two: the vow of perfect and perpetual chastity, and, the vow to enter a religious Order in which solemn vows are taken, if they are made unconditionally, and after the completion of the eighteenth year of age. (Canon 1309.)

1153. By virtue of a vow no one else except the one making the vow is held.

The obligation of a *real* vow goes over to the heirs, as also the mixed vow to the extent as it is *real.* (Canon 1310.)

1154. The vow ceases in the following cases: when the time expires which was annexed to it for the finishing of the obligation; by substantial change of the object which was promised; by cessation of the condition on which a vow was made dependent or its final purpose; by irritation, dispensation, commutation. (Canon 1311.)

1155. He who has dominative power over the will of the person making a vow, can annul his or her vows validly, and for good cause also licitly, so that its obligation does in no way revive afterwards.

He who has not indeed power over the will of another, but over the matter which is made the object of the promise, can suspend the obligation of the vow for such a length of time as the fulfilment of the vow would be to his prejudice. (Canon 1312.)

1156. Vows which are not reserved, and the dispensation from which does not injure the acquired rights of a third party, may for good reason be dispensed with:

1. by the Ordinary of the diocese, who can dispense all his subjects and the *peregrini;*

2. the religious superior in clerical exempt religious communities, who dispenses his subjects in the Order, and all those habitually living under the same roof with his religious;

3. persons delegated by the Holy See to dispense from vows. (Canon 1313.)

1157. The good work promised in a non-reserved vow can be commuted into a better, or an equal one, by the individual himself who made the vow; but for changing it into a lesser work the power of dispensation is required, according to the rules of the foregoing Canon. (Canon 1314.)

1158. Vows made before entering a religious community are suspended as long as the person remains in the religious life. (Canon 1315.)

CHAPTER II.

Oath.

1159. An oath, which is an invocation of the Divine name in witness of the truth, cannot be taken except with truth, judgment and justice.

An oath which the Canons demand or permit cannot validly be taken by proxy. (Canon 1316.)

1160. The person who freely takes an oath to do some work is held by the special obligation of religion to do what he has promised under oath.

An oath exacted by violence or grave fear is valid, but it may be released by the ecclesiastical superior.

An oath, made without violence or deceit, by which a person renounces some private good or favor given him by the law itself must be observed whenever it does not involve the ruin of the soul. (Canon 1317.)

1161. A promissory oath follows the nature and conditions of the act to which the oath is added.

If an act involving directly the damage of others, or the prejudice of the common weal, or eternal salvation, is confirmed by an oath, the act does not thereby acquire any firmness. (Canon 1318.)

1162. The obligation induced by a promissory oath ceases:

1. if it is released by him in whose favor the oath was made;

2. if the object promised by oath has changed substantially, or if, on account of changed circumstances the oath becomes either sinful or altogether a matter of indifference, or, finally, if it impedes a higher good;

3. if the final purpose or the condition under which the oath was taken ceases;

4. by annulment, dispensation, commutation, according to Canon 1320. (Canon 1319.)

1163. Those who have the power to annul, dispense, commute vows, have the same power also over a promissory oath; if, however, the dispensation from an oath turns to the prejudice of others who are not willing to remit the obligation, the Holy See alone can dispense from such an oath for reason of the necessity or utility of the Church. (Canon 1320.)

1164. An oath must be strictly interpreted, according to law, and the intention of the person taking the oath, or, if he should act with deceit, according to the intention of the one to whom the oath was made. (Canon 1321.)

PART IV.

THE TEACHING AUTHORITY OF THE CHURCH.

1165. The Lord Jesus Christ confided to the Church the deposit of faith, in order that she, with the perpetual assistance of the Holy Ghost, may faithfully preserve and expound the revealed doctrine.

The Church has independently of any civil power the right and the duty to teach all nations the evangelical doctrine; and all are bound by Divine law to learn this doctrine, and to embrace the true Church of God. (Canon 1322.)

1166. By Divine and Catholic faith must be believed all those truths contained in the written or traditional Word of God, and which are either in solemn judgment or by the ordinary and universal teaching authority, proposed to our belief by the Church, as Divinely revealed truths.

The solemn judgment in this matter is reserved either to a General Council, or to the Roman Pontiff speaking *ex cathedra,* that is to say, in his supreme, teaching authority.

No part of the religious teaching is to be understood as dogmatically declared and defined, unless such declaration or definition is clearly known to have been made. (Canon 1323.)

1167. It is not sufficient to avoid heretical error, but also all those errors which more or less approach heresy. Wherefore all constitutions and decrees by which the Holy See has condemned and prohibited such false opinions must be observed. (Canon 1324.)

1168. The faithful are in conscience obliged to profess their faith publicly whenever their silence, subterfuge, or manner of acting, imports an implicit denial of their faith, a contempt of religion, or an insult to God, or scandal to the neighbor.

A baptized Christian, who calls himself a Christian, yet obstinately denies or calls into doubt any of the truths to be believed by Divine and Catholic faith, is a *heretic;* if he abandons the Christian faith altogether he is called an *apostate;* if, finally, he refuses to be subject to the Supreme Pontiff, or to have communication with the members of the Church subject to the Roman Pontiff, he is a *schismatic.*

The Catholics shall not enter into any dispute or conferences with non-Catholics, especially public ones, without permis-

sion of the Holy See, or, in urgent case, of the Ordinary. (Canon 1325.)

1169. The bishops also, though not possessing, either individually nor in particular councils, the authority of infallible teachers, are, under the authority of the Roman Pontiff, truly doctors and teachers for the faithful committed to their care. (Canon 1326.)

TITLE XX.

Preaching of the Word of God.

1170. The office of preaching the Catholic faith is principally committed to the Roman Pontiff for the universal Church, and to the bishops for the subjects of their diocese.

The bishops are bound to preach in person the holy Gospel, unless they are legitimately impeded; in addition they must employ, besides the pastors, the help of other qualified persons for the salutary fulfilment of the office of preaching. (Canon 1327.)

1171. No one is allowed to exercise the ministry of preaching unless he has received commission from the legitimate superior, by special faculty or by appointment to an office to which the office of preaching is attached by the sacred Canons. (Canon 1328.)

CHAPTER I.

Catechetical Instruction.

1172. It is the proper and most serious office of the pastors of souls to attend to the catechetical instruction of the Christian people. (Canon 1329.)

1173. The pastor must:

1. at stated times each year prepare, by instructions on several days in succession, the children for the reception of the Sacraments of Penance and Confirmation;

2. prepare the children with all possible care, preferably in Lent if nothing stands in the way, to receive first holy Communion worthily. (Canon 1330.)

1174. Besides the instructions for first holy Communion, spoken of in the preceding Canon, the pastor shall instruct more fully in Christian doctrine the children who recently made their first Communion. (Canon 1331.)

1175. On Sundays and other holidays of obligation the

pastor must at an hour more convenient for the majority of the faithful give catechetical instruction to the adults, in such a form as is best suited to their capacity. (Canon 1332.)

1176. The pastor must, for the purpose of religious instruction of the children, if he is legitimately impeded, employ the help of other priests in the parish, and also, if necessary, of pious lay people, especially those who belong to the *sodality of Christian Doctrine,* or a similar society established in the parish.

The priests and other clerics, unless excused by legitimate impediment, must assist their own pastor in this most holy work, and they can be commanded to do so by the Ordinary, also under threat of ecclesiastical penalties. (Canon 1333.)

1177. If according to the judgment of the bishop the help of the religious is deemed necessary for the catechetical instruction of the people, the religious superiors, even though exempt, are obliged, when so requested by the bishop, to give catechetical instruction either in person or through their subjects, especially in their own churches, without, however, any detriment to religious discipline. (Canon 1334.)

1178. Not only the parents, but also all others holding the place of the parents, also masters and God-parents, are obliged in conscience to see to it that those subject or commended to them receive catechetical instruction. (Canon 1335.)

1179. Local Ordinaries have the right to pass regulations concerning the teaching of Christian doctrine to the people, and exempt religious are also bound to observe those rules whenever they teach non-exempt persons. (Canon 1336.)

CHAPTER II.

Sacred Preaching.

1180. The faculty of preaching, for the secular clergy as well as for the non-exempt religious, can be given only by the local Ordinary in his diocese. (Canon 1337.)

1181. If a sermon is to be given only to the exempt religious and to persons of their household, the religious superior of a clerical exempt community, who has this right according to the constitutions, grants the faculty; he can also give this faculty to secular priests, and to those of another Religious Order, provided they have been declared qualified by their Ordinary or by their religious superior.

If a sermon is to be given to others, also to nuns subject to the regulars, the faculty of preaching must be obtained, by both secular and exempt religious priests, from the Ordinary of the place where the sermon is to be given; the preacher who is to address exempt nuns needs, moreover, the permission of their religious superior.

The faculty of preaching to the members of an exempt laical Order is to be given by the Ordinary; the preacher cannot make use of his faculty without the assent of the religious superior. (Canon 1338.)

1182. The local Ordinaries should not without grave reason refuse to give the faculty of preaching to those religious who are presented by their superior, nor recall the faculty which was granted, especially not for all the priests of one community at the same time. The rule of Canon 1340, however, is to observed.

Religious priests are not allowed to make use of the faculty of preaching without the permission of their superior. (Canon 1339.)

1183. The Ordinary, and the religious superior are, under grave obligation of conscience, forbidden to give faculty or permission to preach except to priests of good moral standing and of sufficient knowledge to be ascertained by examination, as demanded by Canon 877, § 1.

If after giving faculty or permission, they find that the preacher is lacking the necessary qualifications, they must recall the faculty; when doubt arises as to the necessary knowledge, they must make sure of it, even by a new examination, if necessary.

In the case of deprivation of the faculty of preaching recourse to the higher superiors is permitted, but no appeal *in suspensivo,* which means to say that the order of the superior must be obeyed in the meantime. (Canon 1340.)

1184. Priests of another diocese, seculars as well as religious, shall not be invited to preach unless permission has first been obtained from the bishop of the place where the sermon is to be given. The bishop, unless the priest is otherwise known to him, shall not give faculty to preach unless he has first received from his Ordinary a good testimonial concerning the knowledge, piety, and good character of the preacher; the Ordinary giving the testimonials is bound by serious duty of conscience to make a truthful statement.

The pastor must apply for the faculty in good time when there is question of the parochial or another church subject to him; in a church exempt from the jurisdiction of the pastor, the rector; and if there is question of a capitular church the first dignity of the Chapter with the consent of the Chapter; and the director or chaplain of a confraternity if it has a church of its own.

If the parochial church is at the same time the proper church for a Chapter or confraternity, the priest who, by right performs the sacred functions is to apply for the faculty of an outside preacher. (Canon 1341.)

1185. The faculty of preaching should be given only to priests or deacons, not, however, to other clerics unless the bishop see fit to grant it in individual cases.

All laymen, even religious, are forbidden to preach in church. (Canon 1342.)

1186. The Ordinaries of places have the right to preach in any church of their territory, not excluding exempt churches.

Unless the city is very large, the bishop can forbid sermons to the people in other churches of the town or city at the time when he either himself preaches, or has a sermon preached in his presence on some public and extraordinary occasion. (Canon 1343.)

1187. On Sundays and holidays of obligation throughout the year it is the duty of the pastor to preach to the people the Word of God in the customary homily, especially during the Holy Mass in which the attendance of the people usually is more numerous.

The pastor cannot fulfil this obligation habitually through another priest, unless he has a just excuse, to be approved by the bishop.

The Ordinary may permit that on the more solemn feasts, and for a good reason also on some Sundays, the sermon is omitted. (Canon 1344.)

1188. It is to be desired that in all churches and public oratories where people assist at Holy Mass on Sundays and holidays of obligation a short explanation of the holy Gospel, or on any other point of Christian doctrine, be given to the people; if the Ordinary has given orders concerning this affair they must be obeyed, not only by the secular clergy, but also by non-exempt and exempt religious in their own churches. (Canon 1345.)

1189. Local Ordinaries shall attend to it that during the Lenten season, and also, if they judge it useful, during Advent, sermons are more frequently given in cathedral and parochial churches.

The canons and others belonging to the cathedral Chapter shall be obliged to be present at these sermons if they are held immediately after the choir services, unless they are detained elsewhere for good reasons; the Ordinary can oblige them to be present even under canonical penalties. (Canon 1346.)

1190. In the sacred sermons there should be explained above all else the things which the faithful must believe and do to save their souls.

The preachers of the word of God should abstain from profane arguments or arguments so deep as to exceed the common understanding of their hearers; and they should not exercise the evangelical ministry in skilled words of human wisdom, nor with a profane demonstration of vain and ambitious eloquence, but in the power and strength of the spirit of God, not preaching themselves but Christ crucified.

If it should unfortunately happen that a preacher disseminates errors and scandals he shall be forbidden to preach, to hear confessions or to exercise any office of teaching; if his preaching is heretical, he should be dealt with according to the rules of law. (Canon 1347.)

1191. The faithful are to be zealously admonished to be frequently present at sermons. (Canon 1348.)

CHAPTER III.

Sacred Missions.

1192. The Ordinaries should insist that the pastors have a mission given to their parishioners at least once in ten years.

The pastors, not excluding those of Religious Orders, are held to obey the Ordinary's regulations concerning these missions. (Canon 1349.)

1193. Local Ordinaries and pastors should interest themselves in the welfare of the souls of the non-Catholics in their dioceses and parishes.

In other territories the entire care for the missions among non-Catholics is exclusively reserved to the Holy See. (Canon 1350.)

1194. Nobody must be forced to embrace the Catholic faith against his will. (Canon 1351.)

TITLE XXI.

Seminaries.

1195. It is the proper and exclusive right of the Church to educate the men who desire to give themselves to the ecclesiastical ministry. (Canon 1352.)

1196. The priests, specially the pastors, should give attention to boys who show signs of ecclesiastical vocation, and take pains to keep them from the contamination of the world, instruct them in piety, give them the first lessons in the study of letters, and foster the seed of vocation in them. (Canon 1353.)

1197. In every diocese the bishop shall erect in a suitable place a seminary or college, in which, according to the means and the requirements of the diocese a certain number of young men are to be educated for the clerical state.

Care should be taken to have, especially in large dioceses, two seminaries, a minor seminary for the boys for the study of letters and sciences, and a major seminary for the study of philosophy and theology.

If a diocesan seminary cannot be erected, or if in such a seminary a regular course in philosophy and theology cannot be given, the bishop should send the students to an outside seminary, unless there is an interdiocesan, or provincial, seminary erected by the authority of the Holy See. (Canon 1354.)

1198. If there are no proper revenues for the building and maintenance of the seminary and the students, the bishop can:

1. order the pastors and rectors of churches, also the exempt ones, to take up at stated times a collection for that purpose;

2. impose a seminary tax;

3. if these means are not sufficient, he may annex some simple benefices to the seminary. (Canon 1355.)

1199. The seminary tax or assessment must be paid by the *mensa episcopalis,* by all benefices, including those of regulars and those over which some one has the right of patronage, by all parishes and quasi-parishes, though they have no other revenue than the offerings of the faithful, by hospitals erected by eccles-

iastical authority, by sodalities canonically erected, and by church buildings which have their own revenue, and by every religious house though exempt, unless the religious live solely on alms or have actually in their houses a college for pupils or teachers for the common weal of the Church. All contrary custom is disapproved and every kind of contrary privilege is recalled, and no appeal granted.

This assessment must be general, and of the same percentage for all churches and institutions subject to the tax, and may be larger or smaller, according to the needs of the seminary. The annual tax must not exceed 5 per cent. of the income, and it is to be lowered as the revenue of the seminary increases.

The taxable income is that which remains over and above at the end of the year, after the obligations and necessary expenditures have been paid. In benefices of cathedral or collegiate churches, where the members of the cathedral or collegiate Chapter receive daily distributions besides the regular revenue of their benefice, the daily distributions are not taxable; if the benefice consists only of the daily distributions, the third part of them is taxable. In parishes the offerings of the faithful are not taxable revenue of the parish, unless the parish has no other revenue than the offerings of the faithful, in which case one-third of the offerings is taxable. (Canon 1356.)

1200. The bishop has the right to pass regulations for the proper administration, government and progress of the diocesan seminary and to enforce these regulations, saving the rules which the Holy See may have laid down for special cases.

The bishop should take special care to frequently visit the seminary himself, watch over the manner in which secular and ecclesiastical sciences are taught, and obtain personal knowledge of the vocation and character and standing in studies of the pupils, especially at the time of ordinations.

Every seminary shall have its laws approved by the bishop, in which regulations are given both for the students and for the professors of the seminary.

The interdiocesan, or provincial, seminary shall be governed and administrated according to the laws passed by the Holy See. (Canon 1351.)

1201. In every seminary there must be a rector for the government of the house, professors, an *economus* distinct from the

rector for the administration of the temporalities, at least two ordinary confessors, and a spiritual director. (Canon 1358.)

1202. There should be appointed two boards for each seminary, one for discipline, the other for the administration of the temporal goods.

Each board is to consist of two priests chosen by the bishop with the advice of the Chapter or of the diocesan consultors; the vicar general, priests living in the bishop's house, the rector of the seminary, the *economus,* and the ordinary confessors, are excluded from either board.

The office of the members of the two boards lasts for six years, and those appointed should not be removed without a serious cause; they may be re-appointed.

The bishop must consult the boards in affairs of importance. (Canon 1359.)

1203. To the office of rector, spiritual director, confessor, and professor of the seminary, are to be appointed men qualified for these offices not only by their learning, but also by virtue and discretion, so that they may in word and deed be an example to the alumni. According to Canon 891 the rector may not be confessor for the seminarians.

The rector of the seminary must be obeyed by all in the exercise of his office. (Canon 1360.)

1204. Besides the ordinary confessors, other confessors should be appointed, to whom the seminarians may freely go to confession.

If these confessors live outside the seminary, and the student requests the rector to call one of them to hear his confession, the rector is forbidden in any way to inquire for the reason why or to show displeasure. If the confessors live in the seminary, the seminarians may freely approach them, saving the discipline of the seminary.

When there is question of admitting a seminarian to orders, or of dismissing him from the seminary, the vote of the confessor must never be asked. (Canon 1361.)

1205. The income derived from legacies for the education of clerics may be used in favor of alumni of the minor as well as the major seminary, though they are not as yet clerics properly so-called by reception of the tonsure, unless the terms under which a legacy was left to the seminary explicitly restricts the use of the money to clerics proper. (Canon 1362.)

1206. The bishop should receive into the seminary only boys of legitimate birth, and of such a character that there is good reason to believe they will persevere and work with success in the ecclesiastical ministry.

Before they are received they must present testimonials of legitimate birth, of Baptism and Confirmation, and of conduct.

Students who have been discharged from another seminary or from a religious community should not be received unless the bishop has first obtained information also in secret from the superiors and others about the reason of their dismissal, and testimonials as to their character and talents and has ascertained that there is nothing in their character which would be unbecoming to the sacerdotal state. Superiors and others asked for information are bound by grave obligation of conscience to answer truthfully. (Canon 1363.)

1207. In the lower grades of the seminary:

1. the religious instruction should occupy the first place, and it is to be adapted to the age and intelligence of the pupils;

2. the students should accurately learn Latin and the vernacular language;

3. in other branches of study the requirements of the clergy of the respective countries is to be taken into consideration. (Canon 1364.)

1208. The course of philosophy, together with other, allied subjects, is to last at least two years.

The theological course must last four years; besides dogmatic and moral theology, special attention must be paid to the study of the Sacred Scriptures, Church history, Canon Law, Liturgy, Sacred Eloquence, and ecclesiastical chant.

There are to be also classes of Pastoral Theology, with practical exercises of how to teach catechism to children and others, how to hear confessions, visit the sick, and assist the dying. (Canon 1365.)

1209. As professors of philosophy, theology and law, the bishop and seminary boards should prefer those who have the degree of doctor in a university, or a faculty recognized by the Holy See, or, if there is question of religious, those who have received a similar title from their major superiors.

Philosophy and theology shall be taught by the professors absolutely according to the manner of the Angelic Doctor, without deviating from his doctrine and principles.

There should be distinct professors at least for Sacred Scripture, Dogmatic Theology, Moral Theology, and Church History. (Canon 1366.)

1210. The bishop shall see to it that the seminarians:

1. daily say their morning and night prayers, hold a meditation in common, and assist at Holy Mass;

2. go to confession at least once a week, and frequently receive holy Communion;

3. on Sundays and holidays of obligation assist at solemn Mass and Vespers, serve at the altar and take part in the sacred ceremonies, especially in the cathedral, if this, according to the bishop's judgment can be done without detriment to discipline and studies;

4. each year make a retreat for a few days;

5. once a week attend an instruction on spiritual life. (Canon 1367.)

1211. The seminary shall be exempt from parochial jurisdiction. The rector of the seminary and his delegate shall have the office of pastor for all persons living in the seminary, with the exception of affairs of the Sacrament of Marriage, unless the Holy See has passed other regulations for particular seminaries. (Canon 1368.)

1212. The rector of the seminary, and others under his authority, shall attend to it that the alumni faithfully observe the statutes approved by the bishop, that the plan of studies is accurately followed, and that the students are imbued with a truly ecclesiastical spirit.

True Christian politeness should be taught and practiced by the professors for an example to the seminarians; the requirements of hygiene, cleanliness of clothes and person, courtesy, moderation and gravity shall be observed by the students.

The rector shall watch that the professors properly attend to the duties of their office. (Canon 1369.)

1213. Whenever seminarians live outside the seminary for any reason, the bishop shall appoint a priest who is responsible for them, according to Canon 972, § 2. (Canon 1370.)

1214. Disorderly, incorrigible, seditious characters shall not be suffered in the seminary, nor, in general, those whose behavior or talents do not make them desirable candidates for the clerical state. Students who advance but little in studies, so that

there is not much hope that they will acquire sufficient learning, shall be dismissed. If a seminarian has been guilty of immorality, or of offenses against Catholic belief, he shall be immediately discharged. (Canon 1371.)

TITLE XXII.

Catholic Schools.

1215. Catholic children are to be educated in schools where not only nothing contrary to Catholic faith and morals is taught, but rather in schools where religious and moral training occupy the first place.

Not only the parents, as mentioned in Canon 1113, but also all those who take their place have the right, and the most serious obligation of caring for the Christian education of the children. (Canon 1372.)

1216. In every elementary school the children must, according to their age, be instructed in Christian doctrine.

The young people who attend the higher schools are to receive a deeper religious knowledge, and the bishops shall appoint priests qualified for such work by their learning and piety. (Canon 1373.)

1217. Catholic children shall not attend non-Catholic, indifferent, schools that are mixed, that is to say, schools open to Catholics and non-Catholics alike. The bishop of the diocese only has the right, in harmony with the instructions of the Holy See, to decide under what circumstances, and with what safeguards to prevent loss of faith, it may be tolerated that Catholic children go to such schools. (Canon 1374.)

1218. The Church has the right to establish elementary schools as well as any kind of schools. (Canon 1375.)

1219. The canonical erection of a Catholic University or of a Catholic faculty is reserved to the Holy See.

A Catholic University or faculty, also those in charge of any religious family, must have its statutes approved by the Holy See. (Canon 1376.)

1220. Academic degrees to be recognized in Canon Law cannot be conferred except by faculty of the Holy See. (Canon 1377.)

1221. Doctors, who have received their degrees legitimately, have the right, outside of sacred functions, to wear a ring with a stone, and the doctor's hat, and in conferring the various offices and ecclesiastical benefices the bishop is to give preference, according to the sacred Canons, to those having the doctorate or licentiate, all other things being equal. (Canon 1378.)

1222. If there are no Catholic elementary or mediate schools, spoken of in Canon 1373, the Ordinary should take care to have them established.

Likewise if the public Universities are not imbued with the Catholic doctrine and spirit, it is to be desired that in the nation or province a Catholic University be erected.

The Catholics should not refuse to contribute according to their means towards the building and maintenance of Catholic schools. (Canon 1379.)

1223. It is desirable that the Ordinary send pious and gifted clerics to Universities approved by the Church, in order that they may take up specially the studies of philosophy, theology and Canon Law and obtain academic degrees. (Canon 1380.)

1224. The religious teaching of youth in any schools is subject to the authority and inspection of the Church.

The local Ordinaries have the right and duty to watch that nothing is taught contrary to faith or good morals, in any of the schools of their territory.

They, moreover, have the right to approve the books of Christian doctrine and the teachers of religion, and to demand, for the sake of safeguarding religion and morals, the removal of teachers and books. (Canon 1381.)

1225. Ordinaries of dioceses have the right, either in person or through others, to visit in reference to religious and moral instruction any schools, oratories, summer schools, etc., and from this visitation the schools conducted by a religious community are not excepted unless it is a school exclusively for the professed members of an exempt Order. (Canon 1382.)

1226. In the religious education of the students of any college the rule of Canon 891 must be observed, namely, that the superior of the institution must not hear the confessions of the inmates. (Canon 1383.)

TITLE XXIII.

Censorship and Prohibition of Books.

1227. The Church has the right to rule that Catholics shall not publish any books unless they have first been subjected to the approval of the Church and to forbid for a good reason the faithful to read certain books, no matter by whom they are published.

The rules of this title concerning books are to be applied also to daily papers, periodicals, and any other publication, unless the contrary is clear from the Canons. (Canon 1384.)

CHAPTER I.

Censorship of Books.

1228. Without previous ecclesiastical approval even laymen are not allowed to publish:

1. the books of Holy Scripture, or annotations and commentaries of the same;

2. books treating of Sacred Scripture, theology, Church history, Canon Law, natural theology, ethics, and other sciences concerning religion and morals. Furthermore, prayer books, pamphlets and books of devotion, of religious teaching, either moral, ascetic, or mystic, and any writing in general in which there is anything that has a special bearing on religion or morality;

3. sacred images reproduced in any manner, either with or without prayers.

The permission to publish books and images spoken of in this Canon may be given either by the proper Ordinary of the author, or by the Ordinary of the place where they are published, or by the Ordinary of the place where they are printed; if, however, any one of the Ordinaries who has a right to give approval refuses it, the author cannot ask it of another unless he informs him of the refusal of the Ordinary first requested.

The religious must, moreover, first obtain permission from their major superior. (Canon 1385.)

1229. The secular clergy are forbidden without the consent of their bishop, the religious without the permission of the major superior and the bishop, to publish any book on secular topics, or to be a contributor to, or editor, of daily papers, periodicals, booklets, etc.

In papers, pamphlets and magazines which, as a rule, attack the Catholic religion or good morals, not even laymen should write anything except for a good and reasonable cause, to be approved by the Ordinary. (Canon 1386.)

1230. Matters pertaining in any manner to the causes of beatification and canonization of the servants of God, may not be published without permission from the Sacred Congregation of Rites. (Canon 1387.)

1231. All books, summaries, booklets and papers, etc., in which the concession of indulgences is mentioned, shall not be published without permission of the Ordinary of the diocese.

Special permission of the Holy See is required for printing in any language authentic collections of prayers and good works to which the Holy See has attached indulgences, as also a list of the papal indulgences and summaries of indulgences previously collected, but never approved, and summaries to be now made up from the various concessions. (Canon 1388.)

1232. The collections of decrees of the Roman Congregations cannot be published anew without first obtaining permission from the respective Congregation, and observing the conditions which the prefect of the Congregation may lay down in giving permission. (Canon 1389.)

1233. In the publication of liturgical books, or parts thereof, and in reprints of litanies approved by the Holy See, the Ordinary of the place where the printing is done, or where they are published, must attest that the copy agrees with the original official edition. (Canon 1390.)

1234. Translations of the Holy Scriptures in the vernacular languages may not be published unless they are either approved by the Holy See, or they are published, under the supervision of the bishop, with annotations chiefly taken from the holy Fathers of the Church and learned Catholic writers. (Canon 1391.)

1235. When a work is approved in its original text, the approval does not extend to translations into other languages nor to other editions; wherefore both the translation and the new edition of a work already approved needs a new approval.

If various chapters that have appeared in approved magazines, or other periodicals, are collected and published in book form, they are not considered a new edition and do therefore not need a new approval. (Canon 1392.)

1236. In every episcopal Curia there should be official censors, who shall examine the works to be published.

The examiners should be free from all human respect in the exercise of their office, and shall have before their eyes only the dogmas of the Church and the universal Catholic teaching contained in the decrees of the General Councils, in the constitutions and orders of the Holy See, and in the consent of approved doctors.

The censors should be taken from both the secular and religious clergy, and should be men of mature age, of tried learning and prudence, who will take the golden mean in approving or rejecting doctrines.

The censor must give his opinion in writing; if it is favorable the Ordinary may allow the manuscript to be published; the *imprimatur* of the bishop is preceded by the opinion of the censor over his signature. Only in extraordinary cases and rare circumstances may, according to the bishop's judgment, the name of the censor be omitted.

The author shall never be informed of the name of the censor who is to revise his book before he has given his judgment. (Canon 1393.)

1237. The permission of the Ordinary by which he grants faculty to publish a manuscript shall be given in writing, and shall be printed either at the beginning or the end of a book, magazine, or on pictures, with his name and the date and place of the concession.

If permission for publication is to be denied, the reasons should be given to the author unless there are grave reasons why this should not be done. (Canon 1394.)

CHAPTER II.

Prohibition of Books.

1238. The right and duty to prohibit books for a good reason rests with the Supreme Pontiff for the whole Church, with the particular councils for their territory, with the individual Ordinary for his diocese.

From the prohibition of inferior authorities recourse may be had to the Holy See, not however, *in suspensivo,* which means that the prohibition must be obeyed until Rome has rescinded the orders of the inferior authority.

Also the abbot of an independent monastery, and the supreme superior of a clerical exempt religious body, may with their respective council or Chapter prohibit books to their subjects for good reasons; the same authority possess other major superiors in union with their council in cases where immediate action is necessary, with the duty, however, to refer the matter as soon as possible to the supreme superior. (Canon 1395.)

1239. Books forbidden by the Holy See are to be considered forbidden everywhere, and in any translation into other languages. (Canon 1396.)

1240. It is the duty of all the faithful, and especially of the clergy, of ecclesiastical dignitaries, and of men of extraordinary learning, to refer books which they think pernicious to the Ordinary or to the Holy See. This duty pertains by special title to the legates of the Holy See, to the local Ordinaries, and to rectors of Catholic Universities.

It is expedient in the denunciation of a book to not only indicate the title of the book, but also, as far as possible, the reasons why a book is thought to deserve condemnation.

Those to whom the book is denounced are by sacred duty bound to keep secret the names of those who denounce it.

The local Ordinaries must, either in person or, if necessary, through other capable priests, watch over the books which are published or sold in their territory.

The Ordinaries should refer to the Holy See those books which require a more searching examination, also works which for their effective prohibition demand the weight of the supreme authority. (Canon 1397.)

1241. The prohibition of books has this effect that the forbidden books may not without permission be published, read, retained, sold, nor translated into another language, nor made known to others in any way.

The book which has in any way been forbidden may not again be published except after the demanded corrections have been made and the authority which forbade the book, or his superior, or successor, has given permission. (Canon 1398.)

1242. By the very law are forbidden:

1. editions of the original text, or of ancient Catholic versions, of the Sacred Scriptures, also of the Oriental Church, published by non-Catholics; likewise any translations in any language made or published by them;

2. books of any writers defending heresy or schism, or tending in any way to undermine the foundations of religion;

3. books which purposely fight against religion and good morals;

4. books of any non-Catholic treating professedly of religion unless it is certain that nothing is contained therein against the Catholic faith;

5. books on the holy Scriptures or on religious subjects which have been published without the permission required by Canons 1385, § 1, nn. 1, and 1391; books and leaflets which bring an account of new apparitions, revelations, visions, prophecies, miracles, or introduce new devotions even though under the pretext that they are private; if these books, etc., are published against the rules of the Canons;

6. books which attack or ridicule any of the Catholic dogmas, books which defend errors condemned by the Holy See, or which disparage Divine worship, or tend to undermine ecclesiastical discipline, or which purposely insult the ecclesiastical hierarchy, or the clerical and religious states;

7. books which teach or approve of any kind of superstition, fortune-telling, sorcery, magic, communication with spirits and such like affairs;

8. books which declare duels, suicide, divorce as licit; books which treat of masonic and other sects of the same kind, and contend that they are not pernicious, but rather useful to the Church and civil society;

9. books which professedly treat of impure and obscene subjects, narrate or teach them;

10. editions of liturgical books approved by the Holy See, but which have been unlawfully changed in some things so that they no longer agree with the editions authorized by the Holy See;

11. books which publish apocryphal indulgences, or those condemned or recalled by the Holy See;

12. images of our Lord, of the blessed Virgin, angels, saints, and other servants of God, which are not in accord with the mind and the decrees of the Church. (Canon 1399.)

1243. Books mentioned in n. 1 of the preceding Canon, and books published against the law of Canon 1391, are allowed to those who in any way engage in theological or biblical studies, provided these books are faithful and complete copies of the orig-

inal, and do not in their introduction, or in their notes, attack Catholic dogmas. (Canon 1400.)

1244. Cardinals and bishops, both residential and titular, are not bound by the ecclesiastical prohibition of books, provided they use the necessary precautions. (Canon 1401.)

1245. Ordinaries can give permission to their subjects for the reading of books forbidden by the general law of the Code, as well as by decree of the Holy See, for individual books and in individual and urgent cases only.

If the Ordinaries have obtained from the Holy See general faculty to allow their subjects the keeping and reading of forbidden books, they should give this permission with discretion. (Canon 1402.)

1246. Persons who have obtained from the Holy See the faculty of reading and keeping forbidden books cannot for that reason read and keep books forbidden by their Ordinaries, unless the Apostolic indult explicitly gives them the faculty to read and keep books forbidden by any authority.

Moreover, they are held by grave precept to guard the forbidden books in order that they may not fall into the hands of others. (Canon 1403.)

1247. Bookdealers shall not sell, loan, or keep books which professedly treat of obscene matters; other forbidden books they should not have for sale unless they have obtained permission from the Holy See, nor should they sell them to any one except they can reasonably judge that the buyer has the right to ask for these books. (Canon 1404.)

1248. By the permission to read forbidden books no one is exempted from the prohibition of the natural law not to read books which are to the reader a proximate occasion of sin.

Local Ordinaries, and others having the care of souls, shall at proper times and occasions warn the faithful of the danger and harm of bad books, especially of those that are forbidden. (Canon 1405.)

TITLE XXIV.

Profession of Faith.

1249. The following persons are held to make the profession of faith according to the form approved by the Holy See:

1. those who assist, either with a decisive or a consultive

vote at a General or Particular Council, or diocesan synod, before the president of the assembly or his delegate; the president before the council or synod;

2. those promoted to the dignity of Cardinals before the dean of the sacred College, the first Cardinal priest and Cardinal deacon, and the Chamberlain of the Holy Roman Church;

3. those promoted to an episcopal see, though titular, or to the government of an abbey, or prelacy *nullius,* vicariate and prefecture apostolic, before the Apostolic Delegate;

4. the vicar capitular before the cathedral Chapter;

5. those promoted to an ecclesiastical dignity, or to membership among the canons, before the bishop or his delegate and the Chapter;

6. those appointed to the office of diocesan consultor before the Ordinary or his delegate and the other consultors;

7. the vicar general, pastors, and others obtaining any benefice, though removable, to which the care of souls is attached; rectors, professors of sacred theology, Canon Law and philosophy in seminaries, at the beginning of each scholastic year, or, at least, the beginning of their office; all candidates for subdeaconship; censors of books mentioned in Canon 1393; priests approved for confessions and preaching before they receive faculty to exercise these duties; all these ecclesiastics must take the oath before the bishop or his delegate;

8. the rector of a Catholic University or faculty before the Ordinary or his delegate; all professors of a canonically erected University or faculty at the beginning of each scholastic year, or, at least, at the commencement of their office, and those who after a successful examination are to receive academic degrees, before the rector of the University or faculty, or his delegate;

9. superiors in clerical religious organizations before the Chapter or the superior who appointed them, or their delegate.

He who relinquishes a former and receives a new office, benefice or dignity, even of the same species, must again make the profession of faith according to the present Canon. (Canon 1406.)

1250. One does not satisfy his obligation of making the profession of faith by doing so through a proxy, or by making it before a layman. (Canon 1407.)

1251. Every custom contrary to the Canons under this Title of Profession of Faith is disapproved by law. (Canon 1408.)

PART V.

BENEFICES AND OTHER NON-COLLEGIATE INSTITUTES OF THE CHURCH.

TITLE XXV.

Ecclesiastical Benefices.

1252. An ecclesiastical benefice is a juridical being, constituted perpetually by competent eccleciastical authority, consisting of a sacred office and the right to receive the revenue accruing from the endowment of the office. (Canon 1409.)

1253. The endowment of a benefice consists either in goods owned by the benefice itself in its juridical capacity, or of certain payments obligatory upon some family or moral person, or of certain voluntary offerings of the faithful, which belong to the rector of a benefice, or so-called stole fees demanded within the limits of diocesan statutes or legitimate custom, or choral distributions to the exclusion of one third part, if all the revenues of a benefice consist in choral distributions. (Canon 1410.)

1254. Ecclesiastical benefices are called:

1. *Consistorial,* if they are usually conferred in consistory; others are known as *non-consistorial;*

2. *Secular* or *Religious,* in as much as they either belong exclusively to the secular or the religious clergy. All benefices erected outside the churches or houses of religious are in case of controversy to be presumed as secular;

3. *Double* or *residential, Simple* or *non-residential,* in as much as the duty of residence is or is not attached to the benefice, besides the other duties of the respective benefice;

4. *Manual, temporary* or *removable, perpetual* or *irremovable,* in as much as they are conferred either revocably or perpetually;

5. *Curata* or *non-curata,* in as much as there is or is not attached to the benefice the care of souls. (Canon 1411.)

1255. Though the following offices and position have some resemblance to the benefices, they do not in law come under the name of benefices:

1. parochial vicariates which are not erected perpetually;
2. laical chaplaincies, namely such which are not erected by competent ecclesiastical authority;
3. coadjutor offices, with or without the right of future succession;
4. personal pensions;
5. a temporary *commenda,* which consist in the concession to some person of the revenues of a church or monastery in such manner that with the death of the person the revenues fall again to the church or monastery. (Canon 1412.)

1256. Unless the contrary is evident, the following Canons refer only to non-consistorial benefices properly so-called; those offices mentioned in the preceding Canon are, therefore, not concerned in the succeeding Canons unless the contrary is evident.

Canons 147-195, treating of appointment to ecclesiastical offices, are to be observed also in appointment to offices with which a benefice is connected. (Canon 1413.)

CHAPTER I.

Constitution or Erection of Benefices.

1257. Consistorial benefices can be erected by the Holy See only.

Besides the Roman Pontiff, the Ordinaries may erect in their respective territory non-consistorial benefices, saving the exception of Canon 394, § 2, which reserves to the Holy See the erection of dignities in the Cathedral Chapter.

Vicars general cannot erect benefices without a special mandate of their Ordinary.

Cardinals may erect in the church of their title benefices which have not the care of souls attached, unless the church belongs to a clerical exempt community of religious. (Canon 1414.)

1258. Benefices should not be erected unless their stable and sufficient endowment is assured, from which revenues accrue perpetually in the manner specified in Canon 1410.

If the endowment consists in a certain sum of money, the Ordinary, after consultation with the diocesan board of administration, spoken of in Canon 1520, shall take care to have the money as soon as possible invested in safe and fruitful real estate or bonds.

Where a proper endowment cannot be had it is not forbidden to erect parishes or quasi-parishes, if it can be prudently foreseen that the necessary revenues will be obtained from other sources. (Canon 1415.)

1259. Before a benefice is erected the persons, if there be any, who are interested should be called and given a hearing. (Canon 1416.)

1260. If a benefactor endows a benefice he may with the consent of the Ordinary at the time of foundation attach conditions even contrary to the common law, provided they are not sinful nor incompatible with the nature of the benefice.

Once the conditions have been admitted the Ordinary cannot validly suppress or change them, unless there is question of changes favorable to the Church, and the consent of founder or patron, as the case may be, is obtained. (Canon 1417.)

1261. The erection of benefices is to be made by legal document in which the place is to be defined where the benefice is erected, and the endowment, rights and obligations of the beneficiary are described. (Canon 1418.)

CHAPTER II.

Union, Transfer, Division, Dismembration, Conversion and Suppression of Benefices.

1262. The union of benefices is:

1. *extinctive,* if out of two or more benefices one only benefice is created, or one or several are united to another in such a way that they cease to exist;

2. *equally principal,* if the united benefices remain the same as they were before without subordination of one to the other;

3. *less principal,* or *by subjection* or *accession,* when the various benefices remain but one or several are joined in subordination to another, principal benefice. (Canon 1419.)

1263. In the *extinctive union* the benefice which emerges out of the union of several benefices has all the rights and obligations of the various benefices, and, if they are incompatible the better and more favorable rights are to be retained.

In the *equally principal union* each benefice conserves its nature, rights and obligations but by virtue of the effected union

the titles to the various benefices are conferred on one and the same cleric.

In the *less principal union* the accessory benefice follows the principal one so that the cleric who obtains the principal benefice also acquires the accessory and must fulfil the obligations of both. (Canon 1420.)

1264. A *transfer* of a benefice means its change from one place to another; *division,* when two or more benefices are made out of one; *dismembration,* when a part of the territory or of the goods is taken from a benefice and assigned to another benefice, charitable or ecclesiastical institution; *conversion,* when a benefice is changed into another kind; *suppression,* when it is entirely extinguished. (Canon 1421.)

1265. To the Holy See is reserved the extinctive union of benefices, their suppression, dismembration which is done by taking away goods of a benefice without erecting a new benefice, the equally or less principal union of a religious benefice with a secular one, or *vice versa,* also the transfer, division and dismembration of a religious benefice. (Canon 1422.)

1266. Local Ordinaries, not, however, the vicar capitular nor the vicar general without special mandate, may for reason of necessity or great and evident utility of the Church, effect an equally or less principal union of parish churches among themselves or with a non-curate benefice, provided, however, in the latter case that in a less principal union of a parish with a non-curate office the non-curate office is considered the accessory.

The bishop cannot unite parishes with the *mensa* of the Chapter or the bishop, with monasteries, churches of religious or other moral persons, nor with the dignities and benefices of the cathedral or collegiate church. He can, however, unite the parish with the cathedral or collegiate church situated in the territory of the parish in such way that the revenues of the parish go to the benefit of the cathedral or collegiate church itself, leaving to the pastor or parochial vicar a portion sufficient for his maintenance.

A union of benefices cannot be made by the local Ordinaries unless the union is made perpetual. (Canon 1423.)

1267. The Ordinaries can never unite any benefices, either with or without the care of souls, to the detriment of those who actually are in possession if they are unwilling; nor unite a bene-

fice where some one has the right of patronage with a benefice of free appointment without the consent of the patron; nor the benefices of one diocese to a benefice of another diocese though both dioceses are united by equally principal union and governed by one and the same bishop; nor exempt benefices, or those reserved to the Holy See, with any other benefices. (Canon 1424.)

1268. If a parish is united by the Holy See to a religious house for the temporalities only, the religious house has only the right to the revenues of the parish but it remains a secular parish, and the superior has the right of presenting a priest of the secular clergy to the bishop to be appointed as pastor. In the United States there are, as a rule, no such arrangements.

If a parish is by Apostolic indult united to a religious house *pleno jure,* the parish belongs to the religious and the superior has the right to nominate a priest of the community to act as pastor, but the bishop has the right to examine and institute him, and he is subject to the bishop's correction and visitation in affairs relative to the care of souls, as specified in Canon 631. Confer also Canon 533, § 1, n. 4. (Canon 1425.)

1269. For reason of necessity or utility of the Church the Ordinary may transfer the secular parochial benefice from one locality to another in the same parish. Other benefices he can transfer only when the churches in which they were founded have collapsed and cannot be repaired; they are to be transferred to nearby churches. In the United States other benefices besides parishes are extremely rare. (Canon 1426.)

1270. Division of parishes is subject to the following rules:

The Ordinaries can, for a just canonical cause, divide any parishes, also against the will of the rectors and without the consent of the people, by erecting a perpetual vicariate or a new parish, or by dismembering the same and giving part to another already established parish.

There is only one canonical reason for dividing or dismembering a parish, namely, either too great a difficulty for the people to go to the parish church, or too numerous a congregation, whose spiritual welfare cannot be taken care of by the appointment of assistants to the pastor.

The Ordinary dividing the parish must assign to the new parish or perpetual vicariate an appropriate portion of goods, saving the law of Canon 1500; these, unless they can be had from

other sources, are to be taken from any of the revenues of the mother church, leaving, however, a sufficient amount for the existence of the mother church.

If the perpetual vicariate, or the new parish, is endowed by the revenues of the parish from which they were separated, they must show respect to the mother church in the manner to be pointed out by the Ordinary; the bishop cannot, however, reserve to the mother church the exclusive right to administer the Sacrament of Baptism.

If a parish belonging to the religious is divided, the new parish or perpetual vicariate does not belong to the religious; likewise, when a parish in which the right of patronage exists is divided, the new parish is free from the patronage. (Canon 1427.)

1271. The local Ordinaries should perform the union, transfer, division, dismembration of benefices by authentic document, and should before action is taken consult the Chapter or diocesan consultors and persons interested.

The union, transfer, division and dismembration of benefices made without the canonical reason is null and void.

Against the Ordinary who unites, divides, etc., benefices, recourse may be had to the Holy See *in devolutivo*. His orders must be obeyed in the meantime. (Canon 1428.)

1272. The bishop cannot impose on any kind of benefices perpetual pensions, or pensions to last for the lifetime of the pensionary, but he may when conferring the benefice impose for a just cause, to be stated in the very act of conferring the benefice, temporary pensions which last for the life of the person on whom the benefice is conferred; the pension must not be so high as to deprive the possessor of the benefice of proper support.

The bishop cannot burden with pensions parochial benefices except in favor of the pastor or parochial vicar of that same parish when they go out of office; this pension, however, must not exceed one third of the revenue of the parish, after expenditures and uncertain revenue have been deducted.

Pensions imposed on benefices, either by the Roman Pontiff or by others, cease with the death of the pensionary, who cannot transfer his pension to another unless this faculty has been expressly conceded to him. (Canon 1429.)

1273. Benefices to which the care of souls is attached can-

not be turned by the bishop into non-curate benefices, nor can he convert religious benefices into secular, nor secular into religious benefices.

Simple benefices, on the contrary, can be turned into curate benefices, provided there are no contrary explicit conditions of the founder. (Canon 1430.)

CHAPTER III.

Conferring of Benefices.

1274. Canons 1431-1447 which treat of the conferring of benefices have reference to the various ecclesiastical position throughout the entire Church. In the United States there are practically no benefices except those of bishops and pastors, the Holy See only appoints bishops, the pastors are appointed by the bishop.

CHAPTER IV.

The Right of Patronage.

1275. Canons 1448-1471 treat of the right of patronage which denotes the privileges and duties which the law grants to Catholics who found a church, chapel, or benefice. The principal privilege of the founder and his heirs consists in the right to choose the priest who is to be in charge of the church or benefice. If no canonical disability stands in the way, the Ordinary is obliged to appoint the priest presented by the patron. While the Code does not abolish the acquired rights of patrons, if they are not willing to sacrifice their rights in the interest of the Church, no one can for the future validly acquire the right of patronage by building or endowing a church, chapel, etc. The bishop may, however, admit the foundation of a benefice under the condition that *for the first time* it may be given to the cleric who founds the benefice, or, in case of a layman, to the priest whom he designates. To encourage pious foundations the bishop should grant to founders spiritual benefits, for example a definite number of Holy Masses to be said each year for their intentions. (Canons 1450-1451.) In the United States the right of patronage has practically been unknown, due to the fact that in most instances churches and chapels were not built or endowed by individual Catholics but by the contributions of many people.

CHAPTER V.

Rights and Duties of Beneficiaries.

1276. Every beneficiary, after having legally taken possession of his benefice, enjoys all the spiritual and temporal rights attached to the benefice. (Canon 1472.)

1277. Though the beneficiary has goods of his own from which he could live, he has the right to use the revenues of the benefice in such quantity as is necessary for his proper support. The superfluous revenues are to be used for the benefit of the poor or of charitable institutions. (Canon 1473.)

1278. Canons 1474-1483 have reference to benefices of a character different from our parochial benefices. Parishes are almost the only benefices in existence in the United States. How much of the revenue the pastor may use for his support and for his personal expenditures is regulated by the statutes of the individual dioceses, which also determine other matters relative to the temporal administration of the parishes.

CHAPTER VI.

Resignation and Exchange of Benefices.

1279. The Ordinary shall not admit the resignation of a benefice by a cleric in major orders, unless he knows that he has sufficient means of support from other sources. Canon 584 provides that the parochial benefice becomes vacant one year from the first profession, other benefices three years after such profession, if the beneficiary should have joined a religious community. (Canon 1484.)

1280. The resignation of the benefice under the title of which a cleric was ordained is invalid unless explicit mention is made that he was ordained under its title, and that with the consent of the Ordinary another legitimate title of ordination has been substituted. (Canon 1485.)

1281. The Ordinary cannot admit a resignation for the benefit of another, or under a condition which affects the conferring of the benefice or its revenues. In the case only where two clergymen contest in the ecclesiastical court the legal claim to the benefice, may one of the contestants relinquish his claim in favor of the other.

The mutual exchanging of two benefices cannot be made validly except for reason of the necessity or utility of the Church with the consent of the Ordinary, and also of the patron if there is question of a benefice over which another has the right of patronage, and provided no injury is done to a third party. The vicar capitular cannot give this permission and the vicar general needs a special mandate of the bishop. Canon 185 requires, however, that the renunciation in order to be valid must be made by the resigning party either in writing, or orally before two witnesses, or also by proxy authorized by special mandate.

The Ordinary shall within one month either grant or deny his consent; the exchange becomes valid from the moment in which the Ordinary gives his consent.

If the conferring of one or both benefices is reserved to the Holy See, the Ordinary cannot allow the exchange. (Canon 1486.)

1282. If the benefices to be exchanged are unequal, they cannot be made equal by reservation of revenue, or payment of money, or anything else having the value of money.

Exchange cannot be made between more than two beneficiaries. (Canon 1488.)

TITLE XXVI.

Other Non-Collegiate Institutes of the Church.

1283. Hospitals, orphan asylums, and other similar institutes destined for works of religion or charity, either bodily or spiritual, may be erected by the Ordinary, and through his decree they obtain legal personality.

The Ordinary of the diocese shall not approve these institutions unless the purpose of their foundation is really useful and they be endowed sufficiently for their purpose.

The rector of such an institution assumes the administration of its goods in accordance with the laws of the foundation. He has the same duties and rights as other administrators of ecclesiastical goods. (Canon 1489.)

1284. If a private individual is the founder of a hospital, orphan asylum, etc., he should in the document of foundation accurately determine the purpose, endowment, administration and government, the use of the income, and to whom the goods are to go in case the institution is discontinued.

There shall be made two copies of this document, one to be kept in the archives of the institution, the other in the episcopal curia. (Canon 1490.)

1285. The Ordinary of the diocese has the right to visit all such institutions, though they have been made a legal person and given in charge of exempt persons.

If they have no separate legal existence but are attached to a religious house, the bishop has complete jurisdiction in the case of a diocesan congregation; if attached to a congregation of papal law, the bishop has the right to watch over the religious teaching, exercises of piety, administration of the Sacraments and moral conduct in these institutions. (Canon 1491.)

1286. Though pious institutes should be exempt from the jurisdiction and visitation of the bishop either by foundation, or prescription, or Apostolic indult, the bishop has the right to demand a financial statement; every contrary custom is disapproved.

If the founder of an institution wants the administrators to be free from making financial statement to the bishop, the foundation shall not be accepted by the bishop. (Canon 1492.)

1287. The local Ordinary shall attend to it that the pious requests of the faithful expressed in the foundation of an institution are complied with. (Canon 1493.)

1288. Without permission of the Holy See these institutions cannot be suppressed, united, or turned to purposes other than that for which they were intended by the founder, unless other provisions are made in the document of foundation. (Canon 1494.)

PART VI.

TEMPORAL GOODS OF THE CHURCH.

1289. The Catholic Church and the Apostolic See have by their very nature the right freely and independently of the civil power to acquire, retain and administrate temporal goods for the prosecution of their proper purposes.

Individual churches, and other moral persons, constituted legal persons by the authority of the Church, have the right to acquire, retain and administrate temporal goods according to the sacred Canons. (Canon 1495.)

1290. The Church has also the right independently of the civil authorities to demand of the faithful the necessary means

for the conducting of Divine worship, the maintenance of the clergy and of others working for the Church, and for all other purposes proper to the end for which the Church is established. (Canon 1496.)

1291. The temporal goods, both movable and immovable, and the temporal rights which belong either to the universal Church, or to the Apostolic See, or to another legal person in the Church, are ecclesiastical goods.

These goods are called *sacred,* if they have been destined for Divine worship by consecration or blessing; *precious,* if they have great value either on account of art, or history, or material. (Canon 1497.)

1292. In the following Canons the term Church signifies not only the universal Church, or the Apostolic See, but also every legal person of the Church, unless the contrary is apparent from the context or from the very nature of the law. (Canon 1498.)

TITLE XXVII.

Acquisition of Ecclesiastical Goods.

1293. The Church may acquire temporal goods by all just means, of both the natural and positive law, by which others may acquire goods.

The ownership of the goods belongs under the supreme authority of the Apostolic See to that legal person which rightfully acquired these same goods. (Canon 1499.)

1294. If the territory of a legal ecclesiastical person is divided so that either a part of it is united to another legal person, or a distinct legal person is constituted by the separation, the common goods which were destined for the benefit of the entire territory, and also the debts contracted for the whole territory, shall be divided with proper proportion and in all fairness by the competent ecclesiastical authority which orders the division. Due regard shall be had for the intentions of founders and benefactors, for acquired legal rights and for special laws governing certain legal persons. (Canon 1500.)

1295. If a legal person ceases to exist, its goods shall belong to the immediate superior legal person, saving always the will and intentions of founders and benefactors, lawfully ac-

quired rights and the special laws which governed the extinct person. (Canon 1501.)

1296. The payment of the *decimae* and *primitiae* shall be governed by the special laws and laudable customs of each country. (Canon 1502.)

1297. Private individuals, both clerics and laymen, are forbidden to collect alms for any charitable or ecclesiastical institution or purpose without the written permission of either the Apostolic See or of their own Ordinary and the bishop of the place where the alms are to be collected. Canons 621-624 regulate the collection of alms by religious. (Canon 1503.)

1298. All churches or benefices subject to the jurisdiction of a bishop must annually pay to the bishop the cathedraticum, or a moderate tax as a token of subjection, to be determined by the bishop according to Canon 1507, § 1, unless it has already been fixed by ancient custom. (Canon 1504.)

1299. The bishop can impose for reason of special needs of the diocese an extraordinary moderate tax on all beneficiaries, both of the secular and the religious clergy, besides the seminary assessment mentioned in Canons 1355 and 1356, and the pensions spoken of in Canon 1429. (Canon 1505.)

1300. Other taxes for the benefit of the diocese or a patron the bishop can impose on churches, benefices and other ecclesiastical institutions, only at the time of foundation or consecration. No tax can be imposed on Mass stipends, whether given in the ordinary way or by the foundation of Masses. (Canon 1506.)

1301. Saving the rules laid down in Canons 1056 and 1234, the taxation of various acts of so-called voluntary jurisdiction, which means the concession of dispensations and other favors, and for the execution of rescripts of the Holy See, or on occasion of the administration of the Sacraments and sacramentals, may be fixed for the whole ecclesiastical province by the Provincial Council or in a meeting of the bishops of the Province; but such regulation of taxes shall not have any force unless first approved by the Holy See.

The taxes for judicial acts are laid down in Canon 1909. (Canon 1507.)

1302. Prescription by means of which a person may acquire rights, or free itself from obligations, is accepted by the Church in reference to ecclesiastical goods in the manner in

which the civil laws of the respective countries admit prescription, saving the exceptions contained in the following Canons. (Canon 1508.)

1303. Not subject to prescription are:

1. the rights and duties of the Divine law, both natural and positive;

2. rights which can be obtained only by Apostolic indult;

3. spiritual rights of which the laymen are incapable, if there is question of prescription in favor of lay people;

4. the fixed limits of the territory of ecclesiastical provinces, dioceses, parishes, vicariates and prefectures apostolic, abbeys and prelacies *nullius;*

5. stipends and obligations of Masses;

6. an ecclesiastical benefice without a title to the same;

7. the right of visitation and obedience in such manner that the subjects cannot be visited by any prelate and are no longer subject to any prelate;

8. the payment of the cathedraticum. (Canon 1509.)

1304. Sacred objects which are in the dominion of private persons can be acquired by private individuals by right of prescription but they may not use these objects for profane purposes. If they have lost the consecration or blessing, they may be freely acquired also for profane, not, however, for indecent purposes.

Sacred objects which are not in possession of private individuals can be prescribed by a legal ecclesiastical person against another legal ecclesiastical person, not, however, by private individuals. (Canon 1510.)

1305. Immovable and movable precious goods, rights and actions, both personal and real, belonging to the Apostolic See are prescribed by a space of one hundred years.

Goods and rights belonging to another ecclesiastical legal person are prescribed by a space of thirty years. (Canon 1511.)

1306. No prescription is valid unless it is based on good faith, not only in the beginning of possession but during the whole time required for prescription. (Canon 1512.)

1307. He who can either by natural or by ecclesiastical law freely dispose of his goods, may relinquish them in favor of pious institutions, either by donation or by last will.

In a last will made in favor of the Church the formalities

of the civil law should be complied with, if possible; if they were omitted, the heirs should be admonished to fulfil the will of the testator. (Canon 1513.)

The present Canon indirectly settles the dispute as to the obligation of heirs to fulfil the last will made in favor of some ecclesiastical institution, if the last will was invalid for lack of the formalities prescribed by the civil law. The Canon does not impose a strict obligation on the heirs but wants them to be admonished to fulfil the will of the testator.

1308. The will of the faithful who leave their goods by donation or last will to pious institutions should be most faithfully executed, also in reference to the manner desired by the giver in the administration and application of the goods, saving the law of Canon 1515, § 3. (Canon 1514.)

1309. The Ordinaries are the executors of all bequests made in favor of pious institutions, either by donation or last will.

By virtue of this right the Ordinaries have the power and obligation, also by way of visitation, to see to it that the pious intentions are complied with, and other, delegated, executors must give an account to the bishop of the exercise of their office.

If there are any clauses added to the last will derogatory to this right of the bishop they are not to be considered. (Canon 1515.)

1310. The cleric or religious who has, either by way of donation or by last will, received goods in trust for pious purposes, must notify the Ordinary and indicate to him all such goods, both movable and immovable, with the obligations attached to them; if the donor has explicitly and absolutely forbidden to refer the matter to the Ordinary the cleric or religious shall not accept the trust.

The Ordinary must demand that the goods received in trust are safely invested and watch over the fulfilment of the pious intentions of the testator, according to Canon 1515.

If a religious is put in trust of goods left in favor of any church of the diocese, or for the benefit of residents or pious works in the diocese, the Ordinary spoken of in the two preceding paragraphs of this Canon is the Ordinary of the diocese, otherwise the major religious superior. (Canon 1516.)

1311. The reduction, changing, commutation of last wills,

wills, which is to be made only for just and necessary causes, is reserved to the Holy See, unless the founder has explicitly given this power to the local Ordinary.

If, however, the execution of the imposed obligations has become impossible on account of a decrease in the revenue, which was not caused by any fault of the administrators, the Ordinary after having heard the parties interested, and trying to adhere as much as possible to the will of the deceased founder, may reduce the obligation according to the laws of equity; the reduction of Masses, however, is reserved exclusively to the Holy See. (Canon 1517.)

TITLE XXVIII.

The Administration of Ecclesiastical Goods.

1312. The Roman Pontiff is the supreme administrator and dispenser of all ecclesiastical goods. (Canon 1518.)

1313. The local Ordinary has the duty to faithfully watch over the administration of all ecclesiastical goods in the territory of his jurisdiction, except those exempted from his authority; he may, however, have acquired jurisdiction even over exempt goods by legal prescription.

Having due regard to the rights, legitimate customs and circumstances, the Ordinaries shall, within the limits of the common law, issue opportune instructions for the administration and business transactions concerning all ecclesiastical goods. (Canon 1519.)

1314. In every diocese the bishop shall establish a board of administrators which is to consist of the bishop as president and two or more qualified men, who should, as far as possible, be familiar also with the civil law relative to goods and property. The members of the board are to be appointed by the bishop after consultation with the cathedral Chapter or the diocesan consultors. If by special law or by custom sufficient provision is made already for administration by a similar board, it will suffice.

Persons related to the bishop by blood relationship, or affinity in the first and second degree, cannot be appointed to the office of administrator, except by indult of the Holy See.

The Ordinary shall not omit to consult the board of administrators in affairs of great importance; the vote of the board, however, is only consultive, unless the common law in some cases

explicitly states that it is decisive, or the document of foundation of some benefice gives such a vote to the board.

The members of the board shall take an oath before the Ordinary for the faithful attendance to their office. (Canon 1520.)

1315. Besides the diocesan board of administrators, the bishop shall appoint good and conscientious men for the administration of goods belonging to a church or charitable institution which has no administrator by law, neither by the special provision of a founder. They should be in office for three years, unless the circumstances of the place make other arrangements advisable.

If laymen have part in the administration of ecclesiastical goods, either by legitimate title of foundation, or by the will of the bishop, the administration must be entirely transacted in the name of the Church and the Ordinary has the right of visitation, of demanding an account, and of prescribing rules for the manner of administration. (Canon 1521.)

1316. The administrators mentioned in the preceding Canon must, before entering upon their office:

1. take an oath before the bishop or the dean of the district that they will faithfully attend to the administration;

2. make an accurate new inventory of all immovable and movable goods of any kind, with their description and valuation, subscribed to by all the administrators; if they use an old inventory, those goods that were lost as well as those acquired since it was made must be noted or added to it.

Of this inventory one copy is to be kept in the archives of the administration, and another in the archives of the episcopal curia. In each copy shall be noted any change which the goods of the church or institution may suffer. (Canon 1522.)

1317. The administrators shall fulfill their office with the same solicitude as exercised by the father of a family, and they shall therefore:

1. watch that the ecclesiastical goods confided to their care do not get lost or suffer damage in any way;

2. observe the rules of Canon Law, as well as the civil law, and the special regulations imposed either by the founder or donor and the legitimate authority;

3. collect the revenue due to the institution, place the money safely, and spend it according to the mind of the founder and the existing laws and regulations;

4. the money of a church which is over and above expenditures, and which can be usefully invested, shall, with the consent of the Ordinary, be invested for the benefit of the church;

5. they shall keep the accounts of income and expenditures in good order;

6. put in good order the documents and papers which serve as proof of the rights of the church and carefully keep them in the archives or in the safe of the church; authentic copies of these should, as far as possible, be made and kept in the archives of the episcopal Curia. (Canon 1523.)

1318. All administrators of ecclesiastical goods, and especially priests and religious, must pay the workmen whom they employ good and fair wages, and must see to it that at a convenient time they are free for prayer; must not in any way dissuade them from their domestic duties and thrift; and not impose on them more work than their strength can bear, nor work which does not agree with their age and sex. (Canon 1524.)

1319. Each year all administrators, both clerics and laymen, are bound to give a financial statement to the bishop. Custom contrary to this obligation is disapproved in law.

If by special law financial statement has to be made to certain specified persons, the Ordinary or his delegate must nevertheless be admitted to inspect the report, otherwise the administrators have not satisfied their duty. (Canon 1525.)

1320. The administrators shall not start a lawsuit in the name of the church concerning church goods unless they have previously obtained the bishop's consent in writing, or the dean's in urgent cases; the dean shall at once inform the Ordinary of the case. (Canon 1526.)

1321. Administrators act invalidly in actions which exceed the limits of ordinary administration, unless they first obtain the bishop's consent in writing.

The Church is not held to the contracts made by administrators without the permission of the competent superior, except when, and in as far as, it has turned to its advantage. (Canon 1527.)

1322. Administrators who, even though not obliged to the administration by reason of the benefice or office, drop the office of administrator which they had explicitly or tacitly accepted and cause by their withdrawal damage to the Church are held to restitution. (Canon 1528.)

TITLE XXIX.

Contracts.

1323. The civil law on contracts and payments of all kinds is to be observed also by virtue of Canon Law, with the same effects of licitness, invalidity, etc., in contracts concerning ecclesiastical goods, unless the civil law in some of its rules is contrary to the Divine law, or the Canon Law explicitly lays down other conditions for certain contracts. (Canon 1529.)

1324. For the alienation of immovable ecclesiastical goods and movable goods which can be preserved, the following is required: (1) a valuation to be made in writing by conscientious experts; (2) a just cause which consists either in urgent necessity or evident utility to the church or charitable institutions; (3) permission of the legitimate superior without which the alienation is invalid.

Other opportune precautions, which the ecclesiastical superior should demand according to the circumstances of the case, must be observed in order that no damage may come to the Church. (Canon 1530.)

1325. The goods must not be disposed of for less than they were appraised.

The sale is to be done by public auction, or, at least, to be announced publicly, unless circumstances make a different course advisable; the goods should be sold to the one who, all things considered, offers the better price.

The money obtained from the sale of the goods shall be carefully placed in safe and useful investments. (Canon 1531.)

1326. The legitimate superior for the granting of permission to alienate church property is the Holy See if there is question, (1) of precious goods (confer Canon 1497 as to the meaning of *res pretiosa*), (2) of goods which exceed in value thirty thousand francs, about $6,000.00.

If there is question of goods which do not exceed in value one thousand francs, about two hundred dollars, the Ordinary may give permission after having heard the board of administrators and the persons interested, unless the matter is of very small value.

If there is question of goods valued at between one thousand and thirty thousand francs, the Ordinary may give permission

provided he obtains the consent of the cathedral Chapter or the diocesan consultors and the board of administration, and of those interested.

If there is question of disposing of goods which can be sold in parts, it is necessary when asking for permission or consent to state what part or portion was sold before; otherwise the permission is invalid. (Canon 1532.)

1327. The formalities demanded by Canons 1530-1532 are required not only in an alienation properly so called, but also for any contract by which the condition of the church becomes worse. (Canon 1533.)

1328. The Church has the right of personal action against him who without due formalities alienated ecclesiastical goods and against his heirs; a right of real action, if the alienation was invalid, against any possessor of the illegally sold goods; the buyer has the right to sue the person who illegally sold him church goods.

Action can be brought against the invalid alienation of ecclesiastical goods by the person who sold them, by his superior, or their successors in office, and by any cleric assigned to the church which suffered harm. (Canon 1534.)

1329. The prelates and rectors shall not dare to make donations from the movable goods of their churches except in small amounts sanctioned by legitimate custom of the place, and only for reasons of just remuneration, or piety, or Christian charity; otherwise the donations can be recalled by their successors in office. (Canon 1535.)

1330. Unless the contrary is proved, it is to be presumed that donations given to rectors of churches, also to rectors belonging to religious communities, are given to the church.

A donation given to the church cannot be refused by the rector or the superior without permission of the Ordinary.

If a donation to the church has been illegally refused, action may be instituted for *restitutio in integrum,* or for indemnity on account of the loss the church has suffered.

A donation made to the church and lawfully accepted by the same cannot be recalled by the benefactor on account of ingratitude of the prelate or rector. (Canon 1536.)

1331. Sacred objects shall not be loaned for purposes repugnant to their nature. (Canon 1537.)

1332. If the goods of a church are for good reasons to be placed under mortgage or similar obligation, or debts are to be contracted, the superior who has according to Canon 1532 the right to grant permission, shall insist that previously all parties interested are heard, and attend to it that the debts are paid as soon as possible.

The Ordinary should for this purpose determine how much is to be paid off annually. (Canon 1538.)

1333. In the sale or exchange of sacred objects the price must not in any way be raised on account of their consecration or blessing.

Administrators may change notes payable to bearer into other investments at least equally safe and fruitful, without, however, any kind of barter, and with the consent of the Ordinary and the diocesan board of administrators and the parties interested. (Canon 1539.)

1334. The immovable goods of the church must not be sold or rented to the administrators of the same church, or to persons related to them in the first and second degree of consanguinity or affinity, without special permission of the local Ordinary. (Canon 1540.)

1335. Land belonging to the church should not be rented except by public auction, or other public announcement, and conditions are to be added to the contract concerning the guarding of the boundaries, proper cultivation of the soil, and payment of the rent, all of which should be secured by legal document.

In renting ecclesiastical goods the following rules are to be observed: (1) if the value of the renting exceeds thirty thousand francs and lasts over nine years, the *beneplacitum* of the Holy See is required; if the renting does not extend over nine years, the rule of Canon 1532, § 3, is to be followed; (2) if the value is between one thousand and thirty thousand francs and the renting extends over nine years Canon 1532, § 3 rules, if not above nine years, § 2 of the same Canon; (3) if the value does not exceed one thousand francs and the renting extends over nine years, Canon 1532, § 2, is to be observed; if it does not extend over nine years, it may be done by the legitimate administrators, having first notified the bishop. (Canon 1541.)

1336. In a lease of ecclesiastical property the lessee cannot purchase the canonical portion of the fruits of the land, due to

the church, without permission of the legitimate ecclesiastical superior spoken of in Canon 1532; if he buys this portion he must at least pay as much money to the church as the portion is worth.

Proper security is to be demanded of the lessee for the specified portion of the produce and other conditions. In the document itself granting the lease (in Canon Law for at least a period of ten years) it should be stated that the ecclesiastical court is to be the arbitrator in disputes that may arise, and that the improvements of the property are to remain attached to the property. (Canon 1542.)

1337. If goods are loaned which are consumed by use in such a manner that the other becomes at once the owner and they are to be returned by goods of the same kind, (a contract which theologians call "*mutuum*") nothing can be asked by reason of the contract itself; in an ordinary loan, however, of goods which are consumed by use it is not in itself unlawful to make an agreement for legal interest, unless the interest is too high; but agreement for higher interest than the law allows may be made if there is a just and proportionate reason for such a demand. (Canon 1543.)

TITLE XXX.

Pious Foundations.

1338. By the name of pious foundations are meant temporal goods given to a legal ecclesiastical person in any manner, with the perpetual obligation, or an obligation of many years to say annually some Masses, or perform other specified functions, or do some works of piety and charity with the revenue of the donated goods.

The foundation when legitimately accepted has the nature of a bilateral contract: *do ut facias.* (Canon 1544.)

1339. It is the right of the bishop to prescribe the regulations concerning the quantity of the endowment for less than which no pious foundation can be accepted, and the distribution of the income of the foundation. (Canon 1545.)

1340. The written consent of the Ordinary of the diocese is required for the acceptance of such foundation by legal persons; the Ordinary should not grant the consent unless he has previously ascertained that the church or institution can satisfy

the old foundations as well as the new one; above all he shall take care that the income from the foundation correspond to the imposed obligations, according to the custom of the respective diocese.

In the accepting, constituting and administrating of the foundation the patron of a church has no rights. (Canon 1546.)

1341. Money and movable goods given for the endowment of a foundation are, by authority of the bishop, to be put in a safe place until they can be invested for the benefit of the foundation. The parties interested and the diocesan board of administrators are to be consulted before the bishop invests the money; the obligations attached to the foundation are to be specified individually. (Canon 1547.)

1342. Foundations, though made orally, shall be put in writing. One copy is to be kept in the archives of the episcopal curia, another in the archives of the place where the foundation is placed. (Canon 1548.)

1343. Besides the regulations of Canons 1514-1517 and 1525, there shall in every church a list be made of the obligations imposed by pious foundations, which the rector shall keep in a safe place.

Besides the book in which the manual Mass stipends are entered, another record is to be kept of perpetual or temporary foundation Masses, which record is to be guarded by the rector; the application of the Masses and the amount of stipends received must be noted in this book, and account is to be given to the Ordinary concerning these Masses. (Canon 1549.)

1344. If there is question of pious foundations in churches of exempt religious, though they be parish churches, the rights and duties of the local Ordinary, of which Canons 1545-1549 treat, belong exclusively to the major superior of the religious. (Canon 1550.)

1345. The reduction of obligations imposed by pious foundations is exclusively reserved to the Holy See, unless the document of foundation explicitly gives to the bishop more rights; the Masses, however, can never be reduced by the bishop, as Canon 1517, § 2, rules.

The indult to reduce foundation Masses does not give power to reduce other Masses due by contract, nor other offices and duties imposed by the pious foundations.

The general indult to reduce the obligations of pious foundations is to be understood in the sense that the person possessing the indult reduce other obligations rather than Masses, unless there are reasons to prove that the indult was given for reduction of Masses. (Canon 1551.)

THE FOURTH BOOK

Canonical Trials

PART I.

PROCEDURE IN COURT.

1346. By the name of ecclesiastical procedure are understood the discussion and settlement before the ecclesiastical tribunal of controversies over matters in which the Church has the right to judge.

The subject-matter of canonical trials are: (1) the prosecution or vindication of the right of physical, or moral, persons, or to declare the actions of these persons legal; this is called *judicium contentiosum;* (2) offences, in order to inflict or declare a penalty; this is called a *judicium criminale.* (Canon 1552.)

1347. The Church by her own exclusive right judges:

1. the cases which refer to spiritual matters, or to temporal matters annexed to spiritual;

2. the violation of ecclesiastical laws and all matters in which sin may be committed, in as far as the definition of guilt and the infliction of ecclesiastical punishment for the sins is concerned;

3. all cases of persons who enjoy the privilege of the ecclesiastical forum, in accordance with Canons 120, 614 and 680.

In those cases in which the civil authority is competent as well as the Church, and which are called *matters of mixed forum,* there holds the right of prevention, which means that whoever first calls the case to its tribunal, has the right to judge the case. (Canon 1553.)

1348. The person who takes a case of the mixed forum to the secular court after it had been started by the ecclesiastical judge, can be punished, not however with censures, and he is deprived of the right to act in the ecclesiastical forum against the same person in the same or a connected matter. (Canon 1554.)

1349. The tribunal of the Congregation of the Holy Office proceeds according to its own manner and arrangement and retains its own proper custom; and also the inferior tribunals must

follow the rules given by the Holy Office in cases which belong to that Congregation.

The other tribunals must observe the laws of the following Canons.

In the trial for the dismissal of religious the laws of Canons 654-668 are to be followed. (Canon 1555.)

SECTION I.

Trials in General.

1350. Canons 1556-1924 treat of the details of economical trials of all kinds, and before various tribunals of the Church.

SECTION II.

Special Rules to Be Observed in Certain Specified Trials.

TITLE XVIII.

Manner of Avoiding Canonical Trial.

CHAPTER I.

Transaction.

1351. As it is very desirable that canonical trials between the faithful be avoided, the judge shall exhort the parties who apply to him for settlement by process of law of a controversy over some private affair, to come to an agreement, if there is some hope that they may come to an understanding.

The judge can issue this invitation either before the parties are called to court, or when they appear in court for the first time, or, finally, at any stage of the trial where he thinks the invitation to be more efficacious and opportune.

It is as a rule more appropriate for the dignity of the judge not in person to invite the parties to amicable settlement, but rather to commit this to some priest, especially to one of the synodal judges. (Canon 1925.)

1352. In this transaction, or friendly settlement, the rules of the civil law of the place where the transaction takes place, should be observed, except in cases where the civil law is contrary either to the Divine or the ecclesiastical law, and the following Canons shall also be observed. (Canon 1926.)

1353. The transaction cannot validly be made either in criminal or contentious cases in which there is question of dissolving the marriage bond, or question of matters pertaining to benefices if the very title to the benefice is the subject of the dispute, or of spiritual matters, if payment with temporal goods intervened, unless the legitimate authority gives permission for settlement.

If the dispute concerns temporal goods of the Church, or goods which though annexed to spiritual objects can nevertheless be considered apart from their spiritual aspect, transaction can take place, provided the formalities prescribed by law for the alienation of ecclesiastical goods are observed where the subject matter necessitates this. (Canon 1927.)

1354. The effect of a transaction which has been successfully brought to conclusion is called *compositio,* adjustment; or *concordia,* agreement.

The expenditures entailed in the transaction shall be equally divided between the parties, unless the contrary has been explicitly decreed. (Canon 1928.)

CHAPTER II.

Compromise by Arbitration.

1355. In order to avoid judicial trials, the parties may also enter into an agreement by which the controversy is committed to the judgment of one or several men, who shall adjust the question either according to the rules of law, or discuss and settle it without the formalities of law according to the rules of equity; in the first case they are called *arbitri,* in the other *arbitratores.* (Canon 1929.)

1356. The rules of Canons 1926 and 1927 must be applied also to the compromise of arbitration. (Canon 1930.)

1357. In ecclesiastical cases laymen and those who are under excommunication or infamy of law, after a condemnatory or declaratory sentence, cannot validly exercise the office of arbiters. Religious shall not accept the office of arbiters without permission of their superior. (Canon 1931.)

1358. If the parties do not wish to consent either to the transaction, nor to settlement by *arbitri* or *arbitratores,* the controversy must be decided by a formal trial outlined in the first section of the fourth book of the Code. (Canon 1932.)

TITLE XIX.

Criminal Trials.

1359. Offences which fall under criminal procedure are the public offences.

The offences which are to be punished by penal sanctions, contained in Canons 2168-2194, are excepted from the procedure of criminal trials.

In offences of the mixed forum the Ordinaries should not, as a rule, proceed against the offender if he is a lay person and public justice has been sufficiently satisfied by punishment inflicted by the civil authority.

Penances, penal remedies, excommunication, suspension, interdict, can be inflicted also outside the ecclesiastical court by the way of precept, provided the offence is certain. (Canon 1933.)

CHAPTER I.

Accusation and Denunciation.

1360. The action of accusation of an offender is exclusively reserved to the promotor of justice. (Canon 1934.)

1361. Any of the faithful have at all times the right to denounce the offence of another for the purpose of asking for satisfaction, or for reparation of damages, or also for the sake of justice and the reparation of scandal and sin.

The obligation of denunciation becomes imperative if one is obliged to it by law or by special legitimate precept, or by the very law of nature on account of danger to faith and morals or on account of any other public evil. (Canon 1935.)

1362. The denunciation must be made in writing and signed by the denouncing party, or orally, before the Ordinary of the diocese, or the Chancellor of the Curia, the dean, the pastor, but if made orally, it shall be put in writing and immediately forwarded to the Ordinary. (Canon 1936.)

1363. The person who denounces an offence must aid the promotor of justice in the obtaining of proofs of the offence. (Canon 1937.)

1364. In cases of injuries and defamation the criminal trial cannot be instituted against the offender unless denunciation or complaint has first been made by the injured party.

If, however, there is question of grave injury or defamation committed against a cleric or religious, especially one in dignity, or by a cleric or religious against another, criminal action can be instituted also *ex officio,* without denunciation or complaint. (Canon 1938.)

CHAPTER II.

Inquisition.

1365. If the offence is neither notorious nor altogether certain, but has become known from rumor and public talk, or by denunciation, or by complaint of damages, or by a general investigation made by the Ordinary, or for any other reason, a special investigation, called in law inquisition, must be made before summoning the supposed offender to court, in order to ascertain whether and what reason there is in the imputation.

This rule must be observed whether there is question of inflicting a punitive penalty or a censure, or of issuing a declaration of a penalty or censure into which one had fallen. (Canon 1939.)

1366. Though the inquisition or investigation may be made by the Ordinary himself, it should by general rule be committed to one of the synodal judges, unless the same Ordinary wishes for a special reason to commit it to some one else. (Canon 1940.)

1367. The inquisitor shall not be delegated for all cases universally but for one case only at a time.

The inquisitor is held to the same obligations as the ordinary judges, and first of all he must take the oath to observe secrecy and to fulfil his office faithfully and to abstain from acceptation of presents, according to Canons 1621-1624. These Canons demand that all officers taking part in a canonical trial must take the oath tendered either by the bishop or the judge who appointed them to act in the case. Furthermore, these Canons insist on the obligation of secrecy for all those concerned in the case, and on the prohibition of accepting presents on occasion of any acts connected with the trial.

The inquisitor cannot act as judge in the same case. (Canon 1941.)

1368 It is left to the good judgment of the Ordinary to

decide when there are sufficient reasons to institute the investigation.

No consideration is to be given to denunciations which come from a pronounced enemy, or a vile and unworthy person, or by an anonymous letter that is void of such adjuncts and elements as would tend to make the accusation somewhat probable. (Canon 1942.)

1369. The investigation must always be conducted secretly and handled with the utmost care, in order that the rumor of the offence may not spread and that no one's good reputation may be endangered. (Canon 1943.)

1370. For obtaining the purpose of the investigation the inquisitor may call some persons whom he believes to have knowledge of the affair, and ask them under oath of telling the truth and of keeping the matter secret.

In the examination of these persons the rules for the examination of witnesses, as given in Canons 1770-1781, should be followed by the inquisitor as far as possible, and in so far as the nature of the inquisition permits. (Canon 1944.)

1371. The inquisitor before closing the inquisition may seek the advice of the promotor of justice whenever he meets with some difficulty, and communicate to him the acts of the inquisition. (Canon 1945.)

1372. When the inquisition is brought to a close the inquisitor shall refer to the Ordinary all results, together with his own opinion in the case.

The Ordinary, or by his special mandate the appointed judge of the Curia, called the *officialis,* shall (1) give orders to make a statement of the fact which is to be kept in the secret archives of the Curia, if the investigation proved that the denunciation was lacking solid foundation; (2) if there are indications of the offence, but insufficient to bring accusatory action against the person, the acts shall be kept in the secret archives and the suspected individual shall be watched in the meantime. It is left to the good judgment of the bishop to ask the suspect concerning the affair and to admonish him, if the suspicion is based on grave reasons; (3) finally, if there are certain or at least probable and sufficient reasons at hand to institute the accusation, the guilty party shall be summoned to appear, and further proceedings shall be instituted according to the following Canons. (Canon 1946.)

CHAPTER III.

Reprimand of the Delinquent.

1373. If the guilty person confesses the fault, the Ordinary shall employ the judicial reprimand, if it can take place, instead of the criminal trial. (Canon 1947.)

1374. The judicial reprimand cannot be employed, (1) in offences to which is attached the excommunication reserved to the Holy See *specialissimo* or *speciali modo,* or the privation of the benefice, the penalty of infamy, deposition or degradation; (2) when there is question of issuing a declaratory sentence of a punitive penalty or of a censure into which one has fallen; (3) when the Ordinary believes that the reprimand would not suffice for the reparation of scandal and the satisfaction of justice. (Canon 1948.)

1375. The reprimand may be employed once or twice, not, however, a third time against the same offender.

Wherefore, if after the second reprimand the offender commits again the same crime, the criminal procedure must be started, or continued, if previously begun, according to Canon 1954 and the following. (Canon 1949.)

1376. Within the limits of Canons 1947 and 1948, the Ordinary may make use of the reprimand not only before the formal trial has commenced, but also after its commencement in the course of the trial, up to the conclusion of the case; in that case the trial is suspended, unless it has to be continued because the reprimand produced no result. (Canon 1950.)

1377. The reprimand may also be employed when complaint is made for damages caused by the offence.

In that case the Ordinary may with the consent of the parties examine into and decide the question of damage by the rules of equity.

If the Ordinary, however, judges that the question of damage cannot easily be decided by the rules of equity, he may issue the reprimand for the purpose of repairing the scandal and bringing about the amendment of the offender, and order the question of damage to be settled by ordinary process of the canonical trial. (Canon 1951.)

1378. The judicial reprimand must, besides salutary admonitions, contain, as a rule, certain opportune remedies, or pre-

scription of penances or of pious deeds, such as are apt to publicly repair the violation of justice, or the scandal.

The salutary remedies, penances, pious works, to be imposed on the offender should be milder and easier than those which could or should have been inflicted on him by the sentence of condemnation in the criminal trial. (Canon 1952.)

1379. The reprimand is considered to have been employed uselessly if the offender does not accept, or accepts but does not comply with the remedies, penances and pious works, imposed on him. (Canon 1953.)

CHAPTER IV.

Construction of the Criminal Trial and Summons of the Offender.

1380. If the judicial reprimand is either insufficient for the reparation of scandal and the restoration of justice, or cannot be employed because the offender denies the offence, or has been applied uselessly, the bishop, or the official judge by special mandate of the bishop, shall command the acts of the inquisition to be given to the promotor of justice. (Canon 1954.)

1381. The promotor of justice shall at once draw up the indictment and present the same to the judge, according to the laws of canonical procedure laid down in the first section of the fourth book of the Code. (Canon 1955.)

1382. In more serious offences, where the Ordinary judges that the accused party would scandalize the faithful by the exercise of the sacred ministry, or some spiritual or religious ecclesiastical office, or by publicly receiving holy Communion, he may after consultation with the promotor of justice prohibit the accused party from the exercise of the sacred ministry, or those offices, or the public reception of holy Communion, as is permitted under these circumstances by Canon 2222, §2. (Canon 1956.)

1383. Likewise, if the judge fears that the accused party may intimidate the witnesses or bribe them, or impede the course of justice in any other way, he may, after consultation with the promotor of justice, command by decree that the offender leave the town or parish, or retire to a specified place and remain there under special surveillance. (Canon 1957.)

1384. The decrees spoken of in Canons 1956 and 1957 cannot be issued until after the accused party has been summoned and has appeared in court, or has become contumacious; they may be issued not only after his first appearance in court in answer to the summons, but also later on in the course of the trial; against these decrees the law does not allow the accused party to raise objection. (Canon 1958.)

1385. For the rest of the procedure in criminal cases the general laws on canonical procedure, contained in the first section of the fourth book of the Code, are to be followed; in the inflicting of penalties the laws of the fifth book of the Code are to be adhered to. (Canon 1959.)

TITLE XX.

Matrimonial Cases.

CHAPTER I.

Competent Forum.

1386. Matrimonial cases between baptized people belong by proper and exclusive right to the ecclesiastical judge. (Canon 1960.)

1387. Cases concerning only civil sequences of marriage belong to the civil magistrates, as stated in Canon 1016, if they constitute the principal action in the case; if, however, civil consequences are incidental or accessory questions in the case, they may be examined and decided also by the ecclesiastical judge by his own authority. (Canon 1962.)

1388. Matrimonial cases of kings, etc., mentioned in Canon 1557, § 1, n. 1, shall be judged exclusively by the S. Congregation, or the tribunal, or special committee, which the Supreme Pontiff shall in each individual case delegate. The cases of dispensation of the *matrimonium ratum et non consummatum* are reserved to the S. Congregation of the Sacraments; the cases which have reference to the *privilegium Paulinum* are reserved to the S. Congregation of the Holy Office. (Canon 1963.)

1389. Wherefore no inferior judge can institute the canonical trial in cases of dispensation of the *matrimonium ratum* unless the Holy See has first granted faculty.

If, however, a competent judge has by his own authority instituted trial for nullity of marriage for reason of impotence and it should happen that, while impotence could not be proved, there appeared proof of *matrimonium non consummatum,* all the acts of the case shall be forwarded to the S. Congregation of the Sacraments, which may use the proofs for issuing sentence on the *matrimonium ratum et non consummatum.* (Canon 1963.)

1390. In all other matrimonial cases that judge is competent who is the lawful judge in the place or diocese in which the marriage was contracted, or in which the party brought to court has a domicile or quasi-domicile; if one of the married parties is a non-Catholic, the domicile or quasi-domicile of the Catholic party is to be considered. (Canon 1964.)

1391. If the court is asked to declare marriage invalid for want of consent, the judge should first of all try by opportune admonitions to induce the party, whose consent is said to have been deficient, to renew the consent. If the essential form of the contract was wanting, or marriage was made invalid by a diriment impediment of a kind from which the Church can and usually does dispense, the judge shall endeavor to induce the parties to renew the consent in the legal form, or to ask for a dispensation. (Canon 1965.)

CHAPTER II.

Constitution of the Tribunal.

1392. By law of Canon 1576, § 1, n. 1, all marriage cases in which there is question of the marriage bond itself must be decided by a board of three judges; in the inquisition for a dispensation of a *matrimonium ratum et non consummatum* there is but one judge to institute the procedure. (Canon 1966.)

1393. The *defensor vinculi matrimonialis* must be summoned in cases of nullity of marriage as well as in the proceedings for collecting proof of the non-consummation of marriage, and of reasons for the dispensation. (Canon 1967.)

1394. It is the duty of the *defensor vinculi:*

1. to be present at the examination of the parties, the witnesses and the experts; to present to the judge a list of questions in closed and sealed enveloppe, to be opened by the judge and pro-

posed to the parties or to the witnesses in the very act of the examination; to suggest to the judge new questions arising from the examination;

2. to examine the points proposed by the parties and to contradict them so far as may be necessary; to examine the documents exhibited by the parties;

3. to write and allege arguments against the nullity of marriage and in favor of its validity or its consummation; to bring out all proofs that he thinks useful for maintaining the validity of the marriage in question. (Canon 1968.)

1395. The *defensor vinculi* has the right:

1. Always and at any stage of the trial to inspect the acts of the case, even those not yet made public; to demand more time for drawing up his written defence, the time to be allotted according to the good judgment of the judge;

2. to be informed of all proofs and allegations in such manner that he may use the right to contradict;

3. to ask that other witnesses be introduced or that the same be examined over again, even after the trial has been finished or published, and to make other observations;

4. to demand that other acts which he suggests be drawn up, unless the court objects by unanimous vote. (Canon 1969.)

CHAPTER III.

Right to Accuse a Marriage and to Ask the Dispensation from the Matrimonium Ratum.

1396. The board of judges cannot take cognizance of, nor decide, any marriage case, unless the regular accusation or legally made petition has preceded. (Canon 1970.)

1397. The following persons are capable of making accusation against a marriage:

1. the married parties in all cases of separation and nullity, unless they themselves were the cause of the impediment;

2. the promotor of justice in impediments which are of their nature public.

All others, though blood relations, have no right to accuse the marriage but only to denounce its invalidity to the Ordinary or the promotor of justice. (Canon 1971.)

1398. The marriage which was not accused during the life time of both parties cannot be accused after the death of either

party, or of both, but is presumed valid in law in such manner that against this presumption no proof is admitted, except where the question arises incidentally. (Canon 1972.)

1399. The married parties alone have the right to ask for a dispensation of a *matrimonium ratum et non consummatum.* (Canon 1973.)

CHAPTER IV.

Proofs.

Article I. Witnesses.

1400. Relations by blood or marriage who by Law of Canon 1757, § 3, n. 3, in any degree in the direct, and in the first degree of the collateral, line, are excluded as witnesses in other cases, may act as witnesses in marriage cases of their relations. (Canon 1974.)

1401. In cases of impotence or non-consummation of marriage, unless the impotence or non-consummation is known with certainty from other sources, each of the married couple must produce witnesses, who are called *septimae manus,* from relations of blood or by marriage, or if such cannot be had, neighbors of good reputation, or otherwise well informed persons, who can swear to the probity of the married couple and especially as to their veracity concerning the matter of the controversy; the judge may also introduce other witnesses *ex officio,* and this he may, according to Canon 1759, § 3, do in all cases that concern the public welfare.

The testimony of the *septimae manus* is an argument of credibility which adds force to the depositions of the married couple; it has not, however, the force of full proof, unless it is supported by other evidence and arguments. (Canon 1975.)

Article II. Bodily Inspection.

1402. In the cases of impotence and non-consummation of marriage bodily inspection of both, or of one, of the married parties must be made by experts, unless this appears evidently useless on account of circumstances. (Canon 1976.)

1403. The experts are to be chosen by the judge after consultation with the *defensor vinculi,* and, besides the general regulations of Canons 1792-1805 concerning experts, the following Canons shall be observed. (Canon 1977.)

1404. Those who have privately inspected the married couple concerning the fact on which the petition for declaration of nullity or non-consummation is based, shall not be admitted to the office of experts; they may, however, be introduced as witnesses. (Canon 1978.)

1405. For the inspection of the man two skilled physicians shall be appointed *ex officio,* that is to say, by the judge and not by choice of the parties.

For the inspection of the woman two midwives who have a legal certificate to practice obstetrics shall be named *ex officio,* unless the woman should prefer two physicians for the inspection, or the Ordinary should think their testimony to be necessary; the doctors are likewise to be appointed *ex officio.*

The bodily inspection of the woman must be done with the entire observance of Christian modesty and in the presence always of an honorable matron to be designated *ex officio.* (Canon 1979.)

1406. The inspection of the woman by the midwives or experts must be done by each of them separately.

Each of the physicians or midwives shall make a separate report within a space of time fixed by the judge.

The judge may subject the report of the midwives to the examination of an expert physician, if he should think this advisable. (Canon 1980.)

1407. After the report has been handed to the judge, the experts, midwives and matron, shall be separately questioned by the judge according to points prepared previously by the *defensor vinculi* to which they shall answer under oath. (Canon 1981.)

1408. Also in cases of want of consent for reason of insanity the judgment of experts is required who shall, if necessary, examine with scientific precision the sick person and those of his actions which give reason to suspect insanity; moreover, experts who have visited the sick person before the case came to court shall be heard as witnesses. (Canon 1982.)

CHAPTER V.

Publication of the Trial, Conclusion of the Case, and Sentence.

1409. After the publication of the trial the parties may, with the permission of the judge, introduce new witnesses to testify on the various articles of the case.

If, however, the same witnesses who have been questioned on the same points before, are again to be examined on those points it may be done only before the former testimony of witnesses has been made public, and provided there has been no underhand agreement or bribe; the *defensor vinculi* has the right to oppose with timely exceptions. (Canon 1983.)

1410. The *defensor vinculi* has the right to demand that he have the last word in arguing, petitioning and answering, in writing as well as in the oral defence.

Wherefore the tribunal shall not proceed to a definite sentence before having asked the *defensor vinculi* and received the answer that he has nothing more to say or to inquire concerning the case.

If, however, the *defensor vinculi* does not make any further statement before the date set for the final sentence, it is presumed that he has nothing more to add to the defence of the case. (Canon 1984.)

1411. In cases which refer to the dispensation from the *matrimonium ratum et non consummatum,* the judge who draws up the case shall neither publish the acts of the case, nor proceed to a sentence on the non-consummation of the marriage and the reasons for a dispensation, but shall forward all the acts of the case together with the opinion of the bishop and of the *defensor vinculi* to the Holy See. (Canon 1985.)

CHAPTER VI.

Appeals.

1412. The *defensor vinculi* must within the time fixed by law appeal to a higher tribunal from the first sentence which declared a marriage null and void; if he neglects to fulfil this office, he shall be forced to do so by the authority of the judge. (Canon 1986.)

1413. After the second sentence has confirmed the nullity of the marriage the parties are free to marry again after ten days from the publication of the second sentence, provided the *defensor vinculi* of the court of appeal has not within that time appealed the case to a third tribunal. (Canon 1987.)

1414. After the marriage has been annulled, the Ordinary shall see to it that mention of the annulment is made in the mar-

riage and baptismal records where the marriage had been entered. (Canon 1988.)

1415. As the sentence in matrimonial cases never becomes a *res judicata,* the cases can be opened again if new arguments come to light, which arguments must, however, be of great weight, according to Canon 1903. A *res judicata* is an absolutely final settlement of a case so that no appeal is accepted against it, and such a case can be opened only by obtaining the *restitutio in integrum* which cannot be granted unless the injustice of the sentence has become evident by revelation of facts unknown before. (Canon 1989.)

CHAPTER VII.

Cases Excepted from the Foregoing Rules

1416. When it is known from sure and authentic document, which cannot be contradicted or objected to, that a marriage was made invalid by the impediments of *disparity of cult, sacred orders, solemn vow of chastity, marriage bond* (*ligamen*), *consanguinity, affinity* and *spiritual relationship,* and it is likewise absolutely certain that no dispensation from these impediments was obtained, in these cases the formalities mentioned thus far may be omitted and the Ordinary can declare the nullity of marriage after having summoned the parties and having given the *defensor vinculi* opportunity to examine into the case. (Canon 1990.)

1417. Against the declaration of nullity the *defensor vinculi* may appeal to the higher court if for good reasons he believes that the impediments given in the preceding Canon are not certain, or that probably dispensation from them was obtained before marriage. If he appeals, the acts of the case are to be sent to the higher court, which should be reminded of the fact that this is a case excepted from the ordinary rules of canonical trial. (Canon 1991.)

1418. The judge of the second instance shall, with the cooperation of the *defensor vinculi,* examine whether the first sentence should be confirmed, or whether the case should be decided in the regular form of canonical procedure; if his decision is in favor of a regular trial he shall return the case for trial to the judge of the first instance. (Canon 1992.)

TITLE XXI.

Cases Against Sacred Ordination.

1419. Cases in which the obligations arising from sacred orders, or the validity itself of the sacred ordination, are attacked, the petition must be sent to the S. Congregation of the Sacraments, or if the ordination is attacked on account of a substantial defect of the sacred rite, to the S. Congregation of the Holy Office; the S. Congregation must decide whether the case is to be settled by judicial procedure in court, or in the disciplinary way.

If the case is to be settled by legal procedure the S. Congregation remands the case to the tribunal of the diocese which was the proper diocese of the cleric at the time of the ordination, or, if the ordination is attacked on account of a substantial defect in the sacred rite, to the tribunal of the diocese in which the ordination took place; in case of appeal from the first sentence, the general rules for the court of the second instance shall be observed. Canon 1594, treating of the court of second instance, rules: (1) From the tribunal of a suffragan bishop appeal is to be made to the archbishop; (2) from cases judged in the first instance by an archiepiscopal court appeal is to be made to a bishop of another diocese which the archbishop may once and for all choose with the approval of the Holy See; (3) from cases judged in the first instance by an archbishop who has no suffragans, or a bishop who is under the immediate jurisdiction of the Holy See, appeal is to be made to the archbishop chosen in the manner prescribed by Canon 285; (4) in exempt Religious Orders or congregations the superior general constitutes the court of the second instance for cases judged by the provincial; in cases judged by the abbot of a monastery, appeal may be made to the supreme head of the monastic Congregation to which the abbey belongs.

If the case is to be decided in the disciplinary form, the S. Congregation itself settles the question, after a previous informative process instituted by the tribunal of the respective diocese. (Canon 1993.)

1420. The validity of the sacred ordination may be attacked by the cleric as well as the Ordinary to whom the cleric is subject, or the Ordinary in whose diocese the ordination took place.

Only a cleric who believes that he did not contract the obli-

gations arising from sacred orders can petition for declaration of nullity of these obligations. (Canon 1994.)

1421. All the rules laid down by the Canons in the first section of the fourth book of the Code, as well as the laws under the special title of matrimonial trials, must with due distinction also be observed in cases against sacred ordination. (Canon 1995.)

1422. The *defensor vinculi* of sacred ordination has the same rights and duties as the *defensor matrimonii.* (Canon 1996.)

1423. Though action be instituted only over the obligations of sacred orders, and not against the validity of the ordination, the cleric must nevertheless be forbidden *ad cautelam* to exercise the sacred orders. (Canon 1997.)

1424. In order that a cleric may be free from the obligations arising from ordination, two conformable sentences are necessary.

In reference to appeal in these cases the laws of Canons 1986-1989 on appeals of marriage cases shall be observed. (Canon 1998.)

PART II.

CASES OF BEATIFICATION OF THE SERVANTS OF GOD AND CANONIZATION OF THE BLESSED.

1425. (Canons 1999-2141.) The interesting details of procedure in the cases of beatification and canonization of the Servants of God contained in this section of the Code are setting forth the particulars of the proceeding, both as to the preparatory part which the diocesan Curia has in the trial as also the final judgment by the Sacred Congregation of Rites.

PART III.

THE MANNER OF PROCEDURE IN CERTAIN AFFAIRS OR IN THE APPLICATION OF PENAL SANCTIONS.

1426. In the judicial proceedings spoken of below, a notary shall always be employed who shall draw up the documents which have to be subscribed by all concerned, and which must be kept in the archives. (Canon 2142.)

1427. Whenever monitions are prescribed, these must be made either orally, in the presence of the chancellor or another official of the Curia, or of two witnesses, or by letter in the manner prescribed by Canon 1719. This Canon rules that in case the written summons cannot be handed by a courier to the person called to court, on account of great distance or for other reasons, it may be transmitted by order of the judge through the public mail, provided the letter is registered and a return receipt signed by the party is secured, or in any other way which, according to the laws and conditions of countries, is considered safest.

The fact of the giving of the monition and an authentic copy of its contents is to be preserved in the acts of the case.

He who prevents the monition from reaching himself is considered as though he received it. (Canon 2143.)

1428. The examiners and consultors and the notary must at the beginning of the proceedings take the oath to keep secrecy concerning all they will learn in virtue of their office, and especially about the secret documents, discussions held in the meeting, and the number and motives of the votes.

If they do not obey this law, they may not only be removed from office, but may also be punished by the Ordinary with fitting penalties, according to the requirements of law; and besides they shall be obliged to repair any damage that may have been caused by their action. (Canon 2144.)

1429. In these trials the summary form is to be followed, but it is not forbidden to have two or three witnesses testify who may be summoned either *ex officio* or at the request of the party, unless the Ordinary, after consultation with the parochial consultors or examiners, should come to the conclusion that the witnesses are proposed by the parties to unnecessarily delay the case.

The witnesses and experts shall not be admitted to testify except they take the oath. (Canon 2145.)

1430. From the definite sentence there is but one remedy which consists in recourse to the Holy See.

In that case all the acts of the process are to be forwarded to the Holy See.

Pending such recourse the Ordinary cannot validly confer permanently upon another the parish or benefice of which a cleric was deprived. (Canon 2146.)

TITLE XXVII.

Manner of Procedure in the Removal of Irremovable Pastors.

1431. The pastor of an irremovable parish can be removed for a reason which makes his ministry harmful or inefficient, even apart from grave guilt on the part of the pastor.

The principal causes for removal are as follows:

1. ignorance, or habitual infirmity either bodily or mental, which render the pastor incapable to properly attend to the duties of his office, if in the bishop's judgment the spiritual welfare of the parish cannot be taken care of by appointment of a parochial vicar (Confer Canon 475);

2. hatred by the people, though unjust and not universal, provided it be such as to impede the useful ministry of the pastor, and can be foreseen not to cease within a short time;

3. loss of good reputation among virtuous and prudent men, whether this arises from levity of conduct of the pastor, or from a former offence which has recently been detected, and which is exempt from penalty on account of prescription, or from the conduct of servants and blood relations with whom the pastors lived, unless by their removal the good reputation of the pastor can be restored;

4. a probable secret crime of which the pastor has been accused, from which the Ordinary may prudently judge that in future great scandal may come to the faithful;

5. inefficient administration of the temporal goods with great damage to the church or benefice, whenever the evil cannot be remedied either by depriving the pastor of the administration or in any other manner, though otherwise the pastor does usefully exercise the spiritual ministry. (Canon 2147.)

1432. Whenever the Ordinary learns that according to his judgment a pastor has fallen into any of the cases of the foregoing Canon, the Ordinary himself shall consult two of the diocesan examiners and discuss with them the truth and gravity of the case, and after this invite the pastor, either in writing or orally, to tender resignation of his parish within a specified period of time, unless there is question of a pastor mentally afflicted.

The invitation to resign must contain the reason which

prompts the Ordinary to take this step, and the arguments on which the charge is based, otherwise the proceeding is invalid. (Canon 2148.)

1433. If the pastor does not resign within the specified time, nor ask for delay, nor attack the reasons of the charge made against him, and the Ordinary has made sure that the invitation was properly issued and actually received by the pastor, and that the latter had no legal excuse for delaying an answer, the Ordinary shall at once remove him from the parish, without being held to the law of Canon 2154.

If there is no certainty concerning the two points, namely, that the pastor has received the invitation, and that by his own fault he neglected to answer, the Ordinary shall either repeat the invitation to resign or prolong the time in which reply must be made. (Canon 2149.)

1434. If the pastor resigns his parish the Ordinary shall declare the parish vacant.

The pastor may instead of the reason stated by the Ordinary give another, less disagreeable and grave motive why he resigns, provided it be true and lawful, for instance, in order to comply with the wishes of the Ordinary.

The resignation may be made not only purely and simply, but also under condition, provided the condition can be and actually is accepted by the Ordinary; the resignation to be valid must be made in writing or orally in presence of two witnesses, as demanded by Canon 186. (Canon 2150.)

1435. The pastor who wishes to attack the reason for removal mentioned in the invitation, may ask for delay to furnish proofs which respite the Ordinary may grant according to his own good judgment, provided it does not become detrimental to the spiritual welfare of the faithful. (Canon 2151.)

1436. The Ordinary must discuss, approve or reject the reasons urged by the pastor against the invitation with the examiners mentioned in Canon 2148, § 1, in order that the proceeding may be valid.

The decision, whether in the affirmative or negative, is to be made known to the pastor by a decree. (Canon 2152.)

1437. The pastor may within ten days object to the decree of removal to the same Ordinary, who, in order to act validly must consult two of the parochial consultors and examine, ap-

prove or reject the new arguments as well as those advanced by him in the first trial; he must make his decision within ten days from the appeal.

The pastor may, with the permission of the Ordinary, who must ask the advice of the parochial consultors on the matter, introduce witnesses whom he can prove he was unable to produce in the first trial.

The decision is to be made known to the pastor by a decree. (Canon 2153.)

1438. After a pastor has been removed, the Ordinary shall consult the diocesan examiners or the parochial consultors who took part in deciding the removal, what is to be done concerning the pastor. According to the circumstances of the case he may either be transferred to another parish, or assigned to some other office or benefice, if he is capable and deserving of such office, or be pensioned.

All other things being equal, the pastor who resigns is to be more favored in the provision made for him than the pastor who is removed. (Canon 2154.)

1439. The question of providing for the removed pastor may be settled by the Ordinary, either in the decree of removal or afterwards, but it should be done as soon as possible. (Canon 2155.)

1440. The priest who is removed from a parish must as soon as possible vacate the parochial residence and turn over to the new pastor, or to the *economus* appointed by the bishop, all goods belonging to the parish.

If, however, the pastor should be sick and cannot be removed without inconvenience, the Ordinary shall relinquish to him even the exclusive use of the house, for so long as he is in that condition. (Canon 2156.)

TITLE XXVIII.

Manner of Procedure in Depriving Removable Pastors of Their Parish.

1441. The movable pastor may be removed from his parish for a good and serious reason according to the law of Canon 2147.

In reference to pastors belonging to religious communities the law of Canon 454, § 5, shall be observed. (Canon 2157.)

1442. If the Ordinary believes that there is present one of these reasons for removal, he shall paternally admonish and exhort the pastor to resign, indicating to him the reason why his parochial ministry is harmful to the faithful, or at least inefficient. (Canon 2158.)

1443. If he does not answer within the specified days the law of Canon 2149 is to be enforced. If the pastor refuses to resign, he shall give his reasons in writing, which the Ordinary must consider with two of the diocesan examiners, in order to act validly. (Canon 2159.)

1444. If the Ordinary after having heard the examiners does not judge the pastor's reasons legitimate, he shall repeat the admonition to resign threatening removal if the pastor should not of his own accord resign the parish within a suitable period of time to be fixed by the bishop. (Canon 2160.)

1445. The specified period of time having elapsed, which may also be prolonged according to the good judgment of the bishop, he shall issue the decree of removal.

The Ordinary shall provide for the removed pastor according to the rules of Canons 2154-2156. (Canon 2161.)

TITLE XXIX.

Manner of Procedure in the Transfer of Pastors.

1446. If the good of souls necessitates the transfer to another parish of a pastor who administers his parish satisfactorily, the Ordinary shall invite and persuade the pastor to consent to the change for the love of God and the welfare of souls. (Canon 2162.)

1447. The Ordinary cannot transfer an irremovable pastor against his will, unless he has obtained special faculties from the Holy See.

A movable pastor, however, may also against his will be transferred, if the parish to which he is to be transferred is not too much inferior to his present parish, provided the following Canons are observed. (Canon 2163.)

1448. If the pastor does not yield to the invitation and per-

suasion of the Ordinary to accept another parish, he shall explain his reasons in writing. (Canon 2164.)

1449. If the Ordinary, notwithstanding the reasons alleged by the pastor, should nevertheless desire to make the change, he must, in order to act validly, consult two of the parochial consultors on the reasons advanced by the pastor, and discuss with them the circumstances of the parish in which the pastor is stationed at present, and the parish to which he is to be transferred, and explain the reasons which make the transfer of the pastor either useful or necessary. (Canon 2165.)

1450. If the Ordinary after having heard the parochial consultors should still want to make the change, he shall repeat the exhortations and admonish the pastor to heed the desire of his superior. (Canon 2166.)

1451. If after all this the pastor still refuses to consent to the transfer, and the Ordinary still believes that the change should be made, he shall command the pastor to go to the other parish within a specified time, and indicate to him in writing that the present parish which he occupies shall be considered vacant *ipso facto* at the expiration of the specified period of time.

If this period has elapsed without result, he shall declare the parish vacant. (Canon 2167.)

TITLE XXX.

Manner of Procedure Against Clerics Not Observing the Law of Residence.

1452. The pastor, canon, or other cleric, who neglect the law of residence to which they are bound by reason of their benefice shall be admonished by the Ordinary and in the meantime, if there is question of a pastor, the bishop shall at the expense of the pastor provide that the welfare of souls does not suffer harm.

In the monition the Ordinary shall remind such offenders of the penalties which clerics incur who do not keep residence, and that according to the law of Canon 188, n. 8, the benefice shall become vacant *ipso facto* if they do not obey the admonition; the bishop shall specify the period of time in which they must return to their residence. (Canon 2168.)

1453. If the cleric does not resume his residence within the specified period of time, nor give reasons for his absence, he

shall declare the parish or other benefice vacant in the manner prescribed by Canon 2149. (Canon 2169.)

1454. If the cleric resumes his residence, and if his absence had been illegitimate, the Ordinary shall not only deprive him of the income of the benefice for the time of his absence, which he forfeits *eo ipso* in virtue of Canon 2381, but may, if the case calls for it, punish him with other penalties, in addition, according to the measure of his guilt. (Canon 2170.)

1455. If the cleric does not resume his residence, but gives reasons for his absence, the Ordinary together with two of the diocesan examiners shall consider the matter, and, if necessary, investigate whether the reasons given are legitimate. (Canon 2171.)

1456. If after consultation with the examiners the Ordinary judges that the reasons are not legitimate, he shall again give the cleric a specified period of time in which he is to return, saving always the privation of the income for the time of illegal absence. (Canon 2172.)

1457. If a movable pastor does not return within the prescribed time, the Ordinary can at once proceed with the privation of the parish. If he returns, the Ordinary shall give him a command in writing not to again leave the parish without his permission under penalty of privation of the parish to be incurred *ipso facto*. (Canon 2173.)

1458. If the cleric who has an irremovable benefice does not resume his residence, but offers new reasons for his absence, the Ordinary shall examine them together with the same examiners in the manner specified in Canon 2171.

If the bishop and the examiners do not think the reasons to be legitimate, the Ordinary shall without consideration of any further arguments command the cleric to return within the time first specified, or within a new term set by the bishop, under penalty of privation of the benefice to be incurred *ipso facto*.

If he does not return, the Ordinary shall declare him deprived of his benefice; if he returns, the Ordinary shall give him the precept mentioned in Canon 2173. (Canon 2174.)

1459. In neither case shall the Ordinary declare the benefice vacant until after he has discussed with the examiners the reasons for absenting himself offered by the cleric, and has made

certain that the cleric could have asked the written permission of the bishop for leave of absence. (Canon 2175.)

TITLE XXXI.

Manner of Procedure Against Clerics Living in Concubinage.

1460. The cleric who, contrary to the law of Canon 133, keeps under his roof, or in any manner frequents, a woman of suspicious character shall be admonished by the Ordinary to send her away, or not to frequent her, threatening the penalties which Canon 2359 decrees against clerics living in concubinage. (Canon 2176.)

1461. If the cleric does neither obey the precepts nor answer, the Ordinary after having ascertained that the cleric could have done so, shall: (1) suspend him *a divinis;* (2) if he is a pastor, deprive him at once of his parish in addition to the suspension; (3) deprive the cleric who holds a benefice without the care of souls, of one-half of the income of the benefice, if within two months from the suspension he did not amend; after three more months of all the income of the benefice; after another three months of the benefice itself. (Canon 2177.)

1462. If the cleric does not obey, but adduces reasons of excuse, the Ordinary shall consult two of the examiners on those points. (Canon 2178.)

1463. If the Ordinary after consultation with the examiners does not believe the proffered reasons to be legitimate, he shall as soon as possible inform the cleric of his judgment, and give him a formal precept to obey within a short time to be fixed by the bishop. (Canon 2179.

1464. The Ordinary can at once coerce a movable pastor who does not obey, by inflicting punishment according to Canon 2177. If there is question of a cleric who holds an irremovable benefice, and who does not obey the bishop's orders in this matter, but offers new reasons for his conduct, the bishop shall subject these new allegations to the examination of the diocesan examiners according to the form of Canon 2178. (Canon 2180.)

1465. If also these reasons are not recognized as legitimate, the Ordinary shall again command the cleric to obey within a suitable period of time; if this period has elapsed without the desired effect, he shall proceed according to the law of Canon 2177. (Canon 2181.)

TITLE XXXII.

Manner of Procedure Against a Pastor Who Is Negligent in the Fulfilment of the Pastoral Duties.

1466. A pastor who seriously neglects or violates the parochial duties imposed by Canons 467, § 1, 468, § 1, 1330-1332, and 1344, shall be admonished by the bishop, who shall remind him of the strict obligation of conscience by which he is bound, and of the penalties which the law decrees against these offences. (Canon 2182.)

1467. If the pastor does not amend, and the bishop after having consulted on the matter two of the diocesan examiners, and having given the pastor opportunity to defend himself should have found proof that the above mentioned parochial duties have again and again been neglected or violated for a considerable length of time, and in important matters, without any just reason, he shall rebuke the pastor and impose on him an appropriate penalty in proportion to his offence. (Canon 2183.)

1468. If both the rebuke and the punishment brought no fruit, the Ordinary after having proved according to the norm of Canon 2183, the culpable perseverance in the neglect or violation of his pastoral duties in matters of importance, he can at once deprive the movable pastor of his parish; the immovable pastor, however, shall be deprived of the income from the benefice either in whole or in part in proportion to the gravity of the guilt: the income of which the pastor was deprived is to be distributed to the poor by the Ordinary. (Canon 2184.)

1469. If the irremovable pastor persist in his sinful carelessness, and such has been proved in the manner prescribed by the foregoing Canons, the bishop can remove also the irremovable pastor. (Canon 2185.)

TITLE XXXIII.

Manner of Procedure for Infliction of the Suspension ex Informata Conscientia.

1470. The Ordinaries may punish their subject clerics *ex informata conscientia* either by a complete or a partial suspension.

The Ordinary is not allowed to make use of this extraordinary means of procedure except in a case where he could not

without great inconvenience proceed against a subject in the ordinary course of law. (Canon 2186.)

1471. In order to issue this suspension neither the form of a judicial trial is required nor canonical monitions, it suffices that the Ordinary in compliance with the following Canons issue a decree in which he simply declares that he inflicts the suspension. (Canon 2187.)

1472. This decree is to be given in writing, unless the circumstances demand otherwise, in which document, besides day, month, and year in which it is issued, shall be indicated the following: (1) it shall be explicitly stated that the suspension is inflicted *ex informata conscientia,* that is to say, for reasons known to the Ordinary; (2) the time of duration of the penalty shall be indicated; the Ordinary should abstain from inflicting a perpetual suspension. It may, however, be inflicted also as a censure, provided that in such case the cleric is advised of the reason why the suspension is inflicted on him; (3) the acts which are forbidden, if it is not a total, but only a partial suspension, must be clearly specified. (Canon 2188.)

1473. If the cleric is suspended from an office for which some one else has to be substituted, as for instance, the priest who takes the suspended pastor's place in the care of souls, the substitute shall receive such compensation from the revenue of the benefice as the Ordinary shall by his own good judgment specify.

The cleric who thinks that the substitute receives too much of the revenue of the benefice, to the detriment to his own income, may apply for a reduction to the immediate superior who would be the judge of appeal in the regular canonical trial. (Canon 2189.)

1474. The Ordinary who inflicts a suspension *ex informata conscientia* must have by previous investigations collected such proofs that give him certainty that the cleric did actually commit an offence serious enough to be punished with such a penalty. (Canon 2190.)

1475. An occult offence, as described in Canon 2197, n. 4, furnishes a just and legitimate cause to inflict the suspension *ex informata conscientia.*

A notorious offence cannot be punished by suspension *ex informata conscientia.*

If a public offence is to be punished by suspension *ex informata conscientia,* it is necessary that one of the following circumstances occur: (1) if conscientious and serious minded witnesses do indeed make known to the Ordinary an offence which was committed, but cannot in any way be induced to testify in court to the crime, and there is no other way open to convict the offender in a judicial trial; (2) if the cleric himself, by threats, and the use of other means, prevents the canonical trial from starting, or, if started, from progressing; (3) if an impediment to the prosecution of the canonical trial or to the issue of the sentence arises from adverse civil laws, or from fear of great scandal. (Canon 2191.)

1476. The suspension *ex informata conscientia* is valid if of several offences one only is occult. (Canon 2192.)

1477. It is left to the prudent judgment of the Ordinary to make known or to conceal to the cleric the cause or offence for which the suspension is inflicted, but if he thinks it well to make known the reason, he should do so with pastoral solicitude and charity, so that the penalty accompanied with paternal admonition may serve not only for the satisfaction of the guilt, but also bring about the amendment of the offender, and serve to eliminate the occasion of sin. (Canon 2193.)

1478. If the cleric has recourse to the Holy See against the suspension inflicted on him, the Ordinary must forward to the Holy See the proofs from which it is made certain that the cleric has really committed an offence which can be punished by this extraordinary penalty. (Canon 2194.)

THE FIFTH BOOK

Offences and Penalties

PART I.

OFFENCES.

TITLE I.

Nature and Division of Offences.

1479. By the generic name of *delictum* there is in ecclesiastical law meant an external and morally sinful violation of a law to which is attached a canonical sanction or penalty, at least indeterminately.

What is said concerning the violation of a law applies equally to the violation of precepts to which a penalty has been attached, unless the contrary is apparent from the circumstances. (Canon 2195.)

1480. The nature of an offence is to be judged from the subject matter of the law. The greater or lesser culpability depends not only on the gravity of the law which is violated, but also on the degree of sinfulness of the action and the harm caused. (Canon 2196.)

1481. An offence is called:

1. *Public,* if it actually has been divulged or circumstances are such that it easily can and must become public;

2. *Notorious, by notoriety of the law,* after the sentence of a competent judge has become a *res judicata,* that is to say, a sentence from which there is no appeal, or after a confession made in court in presence of the judge;

3. *Notorious by notoriety of fact,* if the offence is publicly known and has been committed under such circumstances that it cannot be kept secret by any artifice, nor can be excused by any subterfuge of law;

4. *Occult,* which is not public; occult *materialiter,* if the crime itself is not known; occult *formaliter,* if the person to whom it is to be imputed is not known. (Canon 2197.)

1482. An offence which solely violates a law of the Church

is by its very nature subject only to punishment by the ecclesiastical authority, which may at times ask the assistance of the civil power when it judges such help necessary or opportune. An offence which violates solely a law of the civil authority is punished by the civil authority by its own right, saving the exception of Canon 120, though also the Church is competent to judge it by reason of the sin; the offence which violates the law of either society, can be punished by both. (Canon 2198.)

TITLE II.

Imputability of an Offence, Causes Which Aggravate or Diminish It, and Juridical Effects of an Offence.

1483. The imputability or responsibility of an offence depends on the evil intention of the delinquent, or on the amount of guilt in his ignorance of the law which he broke, or in the omission of due diligence. Wherefore all causes which increase, diminish or take away, deliberate evil will and sinfulness, do also *eo ipso* increase, diminish or take away, imputability or responsibility. (Canon 2199.)

1484. By the term *dolus* is understood here the deliberate will to violate the law, to which is opposed, on the part of the mind, defect of knowledge, and, on the part of the will, the want of liberty.

Whenever the law is violated by external action, the deliberate will is presumed in the external forum, until the contrary is proved. (Canon 2200.)

1485. Incapable of committing an offence are those who do not enjoy the use of reason.

Habitually insane persons, though they have at times lucid moments, or seem to be sane in certain ways of reasoning and acting, are nevertheless presumed incapable of an offence.

An offence committed in voluntary drunkenness is somewhat responsible, but in a lesser degree than if the same offence is committed by a person fully in control of his senses, unless drunkenness was sought deliberately for the purpose of committing the crime, or to excuse it. If the law has been violated in involuntary drunkenness, there is no responsibility at all if the intoxication deprived the person altogether of the use of reason; responsibility is diminished if the use of reason was only partially

impaired. The same is to be said of other, similar disturbances of the mind.

Debility of mind diminishes the responsibility of an offence but does not take it away altogether. (Canon 2201.)

1486. The violation of a law of which one was ignorant is not put to one's account if the ignorance was inculpable; otherwise the responsibility is more or less diminished in proportion to the amount of the sinfulness of the ignorance.

Ignorance of the penalty only attached to the violation of a law does not take away the responsibility for the offence, but diminishes it somewhat.

What is said of ignorance holds good also in reference to inadvertence and error. (Canon 2202.) (Cf. Canon 2229.)

1487. If a person violates a law by the omission of due diligence, the responsibility is diminished in a degree to be measured by the good judgment of the ecclesiastical judge according to the circumstances of the case. If the offender foresaw the occurrence and nevertheless neglected to use such precautions as any prudent man would have used, the guilt is next to wilful violation of the law.

An accidental case which could not be foreseen, or, if foreseen, could not be avoided, is free from all responsibility. (Canon 2203.)

1488. Minor age, unless the contrary is apparent, diminishes the responsibility, all the more so the nearer it approaches infancy. (Canon 2204.)

1489. Physical violence which robs a person of all freedom of action excludes all idea of crime.

Grave fear, even relatively such, necessity and also great inconvenience, excuse as a rule from all guilt, if there is question of purely ecclesiastical laws.

If, however, the act is intrinsically evil, or involves contempt of faith or of ecclesiastical authority, or the harm of souls, the circumstances spoken of in the preceding paragraph do indeed diminish the responsibility but do not take it away.

The case of legitimate self-defence against an unjust aggressor, with due precaution not to injure the aggressor more than necessary for self protection, excuses from all guilt; otherwise the responsibility is only diminished, as is the case also where provocation entices a person to do wrong. (Canon 2205.)

1490. Passion, when voluntarily and deliberately excited or nourished, does rather increase the responsibility; otherwise it diminishes the guilt more or less in proportion to the vehemence of the passion; it may also take away all responsibility if the passion rises suddenly and with such intensity as to exclude reflection and consent of the will or to impede free consent. (Canon 2206.)

1491. Besides other aggravating circumstances, the guilt is increased: (1) By the greater dignity of the person who commits an offence, or against whom the crime is committed; (2) by the abuse of authority or of an office for the commission of an offence. (Canon 2207.)

1492. A *recidivus* in the terminology of law denotes a person who again commits an offence of the same kind for which he had been condemned previously, and under such circumstances and at such a time that his obstinacy in evil intention may with good reasons be conjectured from his actions.

He who offends several times, though in various kinds of violations, increases his responsibility. (Canon 2208.)

1493. Those who agree to cooperate in the same offence by united physical action are all held guilty in the same degree, unless the circumstances increase or diminish the culpability of one or the other.

In an offence which of its very nature requires an accomplice, both parties are held equally guilty, unless the circumstances prove the contrary.

Not only the one who orders the commission of an offence, and who is therefore the principal author of the crime, but also all who induce another or help him in any way to commit the crime, are *ceteris paribus* contracting the same guilt as the executor of the misdeed himself, if the deed would not have been committed without their cooperation.

If their cooperation, however, only facilitated the misdeed which would have been committed even without their help, it is less sinful.

He who ceased to cooperate in the crime by timely withdrawal from all participation is freed from all responsibility, though, for reasons of his own, the executor of the misdeed perpetrated the crime; if he did not completely withdraw his influence, his retraction diminishes but does not take away responsibility altogether.

He who cooperates in a crime merely by neglect of his duty is held responsible to a degree proportionate to his obligation of preventing the crime.

Praise of the accomplishment of a crime, participation in its fruits, receiving or concealing the delinquent, and other actions following after the crime has been fully completed, may constitute new crimes, namely if these actions are punished in law by penalties, but, unless they had made an agreement with the offender about these actions before he committed the crime, they do not import responsibility for the crime. (Canon 2209.)

1494. From the commission of a crime follows:

1. the penal action, either for the declaration or the infliction of the penalty and the petition for satisfaction;

2. the civil action, for reparation of damages, if the crime caused losses to anyone.

Both actions are to be instituted in court according to the rules of Canons 1552-1959; the same judge who handles the criminal cause may also, at the instance of the party that suffered damages, examine into and give sentence in the civil action. (Canon 2210.)

1495. All persons who cooperate in a crime in the manner described in Canon 2209, §§ 1-3, are individually held to pay the expenses and repair the damages done to other persons by the crime, though the judge should have condemned them only to a portion of the expenses and damages. If, therefore, some of the cooperators cannot, or do not, contribute their share the others are held for all expenses and damages. (Canon 2211.)

TITLE III.

Attempted Crime.

1496. He who places an action, or omits an action, which of its very nature leads to the execution of a crime, but does not complete the act either because he changed his mind or was not successful in the execution of the crime on account of insufficient or inadequate means, is said to be guilty of *attempted crime*.

If all actions were placed or omitted which naturally lead to the execution of a crime and would have sufficed to perpetrate it, but, on account of other causes that interfered against the will of the intended criminal, he did not accomplish the crime, it is properly called *frustrated crime*.

The person who induces another to commit a crime, but does not succeed, is nearly as wicked as a person guilty of attempted crime.

Attempted crime that is punished in law with a special penalty, constitutes a real crime. (Canon 2212.)

1497. Attempted crime is sinful to a greater or lesser degree in proportion to its greater or lesser proximity to the accomplishment of the crime, though always less sinful than a committed crime.

Frustrated crime is more sinful than merely attempted crime.

He who of his own accord desisted from the execution of a crime which he had started to commit is free from all responsibility if no damage was caused nor scandal given. (Canon 2213.) The Canon speaks, of course, of responsibility in the external forum or the courts of law, and not of the interior sinful acts of the will, which might in such case be a very serious sin of internal consent, and of will to do a forbidden action.

PART II.

PENALTIES.

SECTION I.

Penalties in General.

1498. It is the innate and proper right of the Church, independently of any human authority to punish her guilty subjects, with both spiritual and temporal penalties.

The admonition of the Council of Trent (session XIII, *de ref. cap.* 1) to the bishops and other Ordinaries is here repeated, from which it is evident that the Church does not favor the hasty and rash use of extreme penalties and censures but reminds the bishops to consider their subjects as children and brethren, and to try as long as possible, by patience and kindness, to influence them to strive after virtue and to desist from vice. (Canon 2214.)

TITLE IV.

Definition, Species, Interpretation and Application of Penalties.

1499. An ecclesiastical penalty is the privation of some good, inflicted by the legitimate authority on the delinquent for

his correction and for punishment of the offence. (Canon 2215.)

1500. There are three kinds of penalties in the Church: (1) The so-called corrective punishments or censures; (2) punitive penalties; (3) penal remedies and penances. (Canon 2216.)

1501. A penalty is called:

1. *Determined,* when the precise nature of it is specified in a law or precept; *undetermined,* if the law, in either perceptive or facultative terms, leaves the determination of the penalty to the good judgment of judge or superior;

2. *Latae sententiae,* if a specified penalty is attached to a law or a precept in such a manner that it is incurred by the very commission of the crime; *ferendae sententiae,* if the judge or superior is instructed to inflict a certain penalty;

3. *A jure,* if the penalty is specified in the law itself, as either *latae* or *ferendae sententiae; ab homine,* if a penalty is inflicted by means of a special precept or condemnatory sentence of a judge, though the punishment is prescribed in law; wherefore a penalty *ferendae sententiae* attached to a law is *a jure tantum* before the condemnatory sentence, after the sentence it is both *a jure* and *ab homine* but is considered as *ab homine.*

A penalty is always understood to be *ferendae sententiae,* unless the law explicitly states that it is *latae sententiae,* or that it is incurred *ipso facto,* or *ipso jure,* or if other similar terms are employed. (Canon 2217.)

1502. In the infliction of penalties the punishment must be in just proportion to the offence, having due regard to the amount of responsibility, scandal and damage; wherefore attention is to be paid not only to the subject matter of the law and its gravity, but also to the age, knowledge, education, sex, state of life, and the condition of mind, of the delinquent, to the dignity of the person against whom the crime is committed, or who committed the offence, to the purpose intended, the place and time and where and when the offence was committed, whether the offender acted under the impulse of passion or out of grave fear, whether he repented of his misdeed and tried himself to prevent its evil consequences, and other similar circumstances.

Circumstances which excuse from all sin, and also those excusing from mortal sin, do likewise excuse from incurring any penalty whether *latae* or *ferendae sententiae;* the excuse holds

also in the external forum if the mitigating circumstances can be proved.

Mutual injury is considered a compensation, so that neither party can ask for reparation, unless one party deserves condemnation on account of having done greater injury to the other, in which case the penalty is to be milder than in a case where there was no mutual injury. (Canon 2218.)

1503. In penalties the milder interpretation is to be applied.

If it is doubtful whether a penalty inflicted by a superior is just, the punishment must nevertheless be accepted, both for the internal and the external forum, except in cases of appeal *in suspensivo*.

Penalties are not to be extended from person to person, or from case to case, though there is the same or even a greater reason, unless several persons participated in a crime in a manner that each one's cooperation was necessary to accomplish the crime (cf. Canons 2231 and 2209, §§ 1-3). (Canon 2219.)

TITLE V.

Superiors Having Coercive Power.

1504. Superiors who have the power to make laws or impose precepts, can also attach penalties to the law or precept. Persons who possess judicial power only, can do no more than apply the penalties legally prescribed, in the manner demanded by law.

The vicar general without a special mandate has no power to inflict penalties. (Canon 2220.)

1505. Those who have legislative power can, within the limits of their jurisdiction, attach a penalty or increase the punishment fixed by law, not only in their own and their predecessors' laws, but also, for reason of peculiar circumstances, in the Divine as well as the ecclesiastical laws of a higher superior in force in the territory of the inferior authority. (Canon 2221.) Cf. exception to this law in reference to papal censures in Canon 2247.

1506. Though the law may not have any sanction attached to it the lawful ecclesiastical superior can punish the transgression of the law with some just penalty, even without first threatening with punishment, if perhaps scandal was given or

the special gravity of the transgression calls for it. Otherwise the offender cannot be punished except he has been first admonished and been threatened with the penalty of either *latæ* or *ferendæ sententiæ* in case of transgression, but nevertheless violated the law.

In a case where the perpetration of an offence is only probable, or while the crime is certain it is doubtful whether the penal action against that crime has been prescribed by lapse of time, the legitimate superior has not only the right, but also the duty not to promote a cleric of whose fitness he is not certain, and for the sake of avoiding scandal, to prohibit a cleric from the exercise of the sacred ministry, or also to remove him from office, according to the norms of law; but all this has not the nature of a penalty in this case. (Canon 2222.)

1507. In the application of the penalty the judge cannot augment the penalty specified in law, unless extraordinary aggravating circumstances demand it.

If the law in stating a penalty *ferendæ sententiæ* uses optional terms, it is left to the good judgment and conscience of the judge to inflict it, or, if the penalty is specified, to mitigate it.

If the law uses terms importing a precept, the penalty must ordinarily be inflicted, but it is left to the conscience and good judgment of the judge, or the superior, (1) to defer the application of the penalty to a more opportune time, if by hasty punishment of the offender greater evils can be foreseen to follow; (2) to abstain from inflicting the penalty if the offender has amended entirely, and has repaired the scandal, or has been, or will be, sufficiently punished by the penalties decred by the law of the civil authority; (3) to mitigate the specified penalty, or in its place to employ one of the penal remedies, or to impose some penance, if there is a circumstance which notably diminishes the guilt, or, though the offender has either amended or has been punished by civil authority, the judge or the superior do nevertheless think it proper to impose some mild punishment.

As a rule, it is left to the good judgment of the superior to declare a penalty *latæ sententiæ;* but, either at the instance of the party interested, or when the public weal demands it, the declaratory sentence must be issued. (Canon 2223.)

1508. Generally speaking there are as many penalties as there are offences.

If, however, on account of the great number of offences there would be too great an accumulation of penalties to be inflicted, it is left to the good judgment of the judge either to impose the severest of the penalties, together with some penance or penal remedy, or to moderate the penalties within the limits of equity and with due regard to the number and gravity of the offences.

If there is a penalty fixed for the attempted crime as well as for the consummated crime, and the crime has been accomplished, the penalty for consummated crime only should be imposed. (Canon 2224.)

1509. If the declaration or infliction of the penalty is pronounced by judicial sentence, the laws of the Canons in reference to the pronouncement of judicial sentences are to be observed; if, however, the penalty of either *latæ* or *ferendæ sententiæ* is inflicted by way of special precept, the declaration or infliction of the penalty should ordinarily be done either in writing or in the presence of two witnesses; Canon 2193 is also to be observed. (Canon 2225.)

TITLE VI.

Persons Subject to the Coercive Power.

1510. Persons held to a law or precept to which a penalty is attached, are subject to the penalty, unless they are explicitly excepted.

Though a more recent penal law abrogates a former law, the milder of the two penalties is to be imposed in the case where the offence had already been committed when the more recent law was enacted.

If the more recent law abolishes either the former law itself or only the penalty attached to it, the penalty ceases immediately though the law had been violated while the penalty was still in force; a censure, however, which had been incurred does not cease with the change of the law, but requires absolution.

The penalty binds the offender everywhere, and also after the superior inflicting the same has passed out of office, unless the contrary is explicitly stated. (Canon 2226.)

1511. The Roman Pontiff only can declare a penalty against, or inflict it on, the persons mentioned in Canon 1557,

§ 1, namely, the supreme heads of nations and their children, Cardinals, Legates of the Holy See and bishops in criminal cases.

Cardinals do not incur penalties unless they are explicitly mentioned, and the same applies to bishops in reference to suspensions and interdicts *latæ sententiæ.* (Canon 2227.)

1512. The penalty attached to a law is not incurred unless the offence committed is complete in its kind, according to the proper meaning of the terms of the law. (Canon 2228.)

1513. Affected ignorance of either the law, or of its penalty only, does not excuse from any penalties *latæ sententiæ,* though the law contains the terms mentioned in the following paragraph.

If the law has these words: *præsumpserit, ausus fuerit, scienter, studiose, temerarie, consulto egerit,* and other similar terms which demand full knowledge and deliberation, any diminution of responsibility, either on the part of the intellect or on the part of the will, exempt from the penalties *latæ sententiæ.*

If the law does not have these terms:

1. the *ignorantia crassa vel supina* of the law, or of the penalty only, does not exempt from any penalty *latæ sententiæ;* if it is not *crassa* or *supina,* it excuses from the so-called corrective penalties or censures, not, however, from the punitive penalties *latæ sententiæ* (Cf. Canon 2202);

2. drunkenness, omission of due diligence, debility of mind, impulse of passion, to a degree that diminishes the responsibility, but not enough to excuse from mortal sin, do not exempt from incurring penalties *latae sententiae;*

3. grave fear does not by any means excuse from penalties *latae sententiae,* if the offence tends to contempt of the faith, or of the ecclesiastical authority, or to public injury of the spiritual welfare of the faithful.

Though the offender is excused from the penalty by reason of ignorance which was not *crassa* or *supina,* he may nevertheless, if the case demands it, be punished with some other appropriate penalty or penance. (Canon 2229.)

1514. Children who have not attained the age of puberty are excused from the penalties *latae sententiae,* and they should be punished with disciplinary chastisement rather than by censures and other more serious, punitive penalties. Adults who

induced a child to break a law, or who cooperated with one in the offence in the manner described in Canon 2209, §§ 1-3, shall incur the penalty fixed by law. (Canon 2230.)

1515. If several persons concurred in the perpetration of a crime, though the law speaks of only one person, all the co-operators mentioned in Canon 2209, §§ 1-3, shall be held to the same penalty, unless the law explicitly states the contrary; other cooperators, however, shall not incur the same penalty, but shall be punished by some other just penalty, according to the good judgment of the superior, unless the law provides a special penalty for them. (Canon 2231.)

1516. The penalty *latae sententiae,* whether corrective or punitive, *ipso facto* binds the offender who is conscious of his offence, both in the external and internal forum; before a declaratory sentence has been issued against the offender he is excused from the observance of the penalty whenever he cannot observe it without loss of good repute, and in the external forum observance of the penalty cannot be demanded of the offender by any one unless the offence is notorious. It is left to the good judgment of the superior to issue the declaration that an offender has incurred the penalty specified in law; if the public welfare demands the declaration, or the offender is accused by the party who suffered from the offence, the superior or judge are obliged to issue the declaration.

By the declaratory sentence the penalty takes effect from the very moment in which the offence was committed. (Canon 2232.)

1517. No penalty can be inflicted unless it is certain that the offence was committed, and that legitimate prescription has not entered against it.

Though this be certain, a censure should not be inflicted on the offender at once, but he should be reprimanded and admonished to recede from his obstinacy, in the form prescribed by Canon 2242, § 3, if the case in the good judgment of the superior or the judge allows delay, and an appropriate space of time should be fixed for his repentance; if he remains obstinate, a censure may be inflicted. (Canon 2233.)

1518. He who has committed several offences shall not only be punished more severely, but may also, if the judge thinks

this necessary, be subjected to surveillance or other penal remedy. (Canon 2234.)

1519. Frustrated and attempted crime, unless punished in law as distinct offences, may be punished with some suitable penalty in proportion to the amount of guilt; Canon 2213, § 3, explains the case in which no penalty is to be inflicted on attempted crime. (Canon 2235.)

TITLE VII.

Pardon of Penalties.

1520. The pardon from penalties, either by absolution when there is question of censures, or by dispensation if they are punitive punishments, can be granted only by him who imposed the penalty or his competent superior, or successor, or a person with delegated faculty.

He who can grant exemption from the law, can also pardon from the penalty attached to the law.

The judge who, in virtue of his office applies a penalty which has been established by the superior, cannot pardon from the penalty after he has imposed it. (Canon 2236.)

1521. In public cases the Ordinary can remit the penalties *latae sententiae* of the common law with the exception (1) of cases brought to court for trial; (2) of censures reserved to the Holy See; (3) of penalties importing inhability to benefices, offices, dignities, positions in the Church, active and passive vote, and privation of them, perpetual suspension, infamy of law, privation of the right of patronage and of a privilege or favor which had been conceded by the Apostolic See.

In occult cases, besides the faculties given under certain circumstances to every priest by Canons 2254 and 2290, the Ordinary can pardon from the penalties *latae sententiae* of the common law, and delegate to others the same power; he may not, however, absolve from a censure reserved to the Holy See *specialissimo or speciali modo.* (Canon 2237.)

1522. A pardon from penalty which has been extorted by violence or grave fear is invalid by law. (Canon 2238.)

1523. A pardon from penalties may be granted to one who is present as well as absent, the pardon may be absolute or conditional, for the external forum or for the internal only; if

granted in the external forum, it is valid also in the internal, but the pardon in the internal forum does not *per se* hold in the external forum.

Though a penalty may be remitted orally, it is nevertheless proper to grant pardon in writing, if the penalty was inflicted by written order. (Canon 2239.)

1524. In reference to the prescription of penal actions, Canon 1703 is to be observed, which Canon ordains that, with the exception of cases subject to the jurisdiction of the Holy Office, the time for instituting criminal action against an offender is limited to three years unless there is question: (1) of injuries, which action expires within one year; (2) of offences against the Sixth and Seventh Commandments of the decalogue, which expire within five years; (3) of simony and homicide which expire after ten years. (Canon 2240.)

SECTION II.

PENALTIES IN PARTICULAR.

TITLE VIII.

Corrective Penalties or Censures.

CHAPTER I.

Censures in General.

1525. A censure is a penalty by which a subject (by Baptism) of the Church is deprived of some spiritual benefits, or of benefits connected with matters spiritual, because of obstinate violation of some law of the Church, until such time as he repents and obtains absolution.

Censures, and especially excommunication, incurred by the very commission of a crime (*latae sententiae*), should be inflicted rarely and with great prudence. (Canon 2241.)

1526. Only those external criminal actions that are mortal sins, complete, and committed with obstinacy, should be punished by censures. A censure may be visited also on delinquents whose identity is unknown.

When there is question of censures *ferendae sententiae,* a person is considered contumacious who does not desist from the

crime, or refuses to do penance and to repair the injury done, or the scandal given, by the crime, after having received the canonical admonitions described in Canon 2233, § 2. A censure *latae sententiae* is incurred by the very transgression of the law or precept to which the censure is attached, unless the guilty person is excused from the penalty by a reason admitted in law.

A person is considered to have ceased to be contumacious when he has sincerely repented of his crime, and has made condign satisfaction for the injury and scandal caused, or has at least earnestly promised to do so. Judgment as to the sincerity of the repentance, or the sufficiency of the satisfaction, or the sincerity of the promise, rests with the one from whom absolution is asked. (Canon 2242.)

1527. Censures inflicted by a sentence in court import their execution as soon as they have been pronounced, and an appeal *in devolutivo* only is granted; likewise from censures inflicted by way of precept appeal *in devolutivo* only is permitted. In both cases, therefore, the censured cleric must conform to the censure during the time in which he has recourse to a higher superior.

Appeal or recourse from the judicial sentence, or from a precept which *threatens* censures *latae sententiae,* but which have not yet been contracted, does not suspend either the sentence or precept, nor the censures, if there is question of matters in which the law does not admit appeal or recourse with suspensive effect; if the law grants appeal *in suspensivo,* the censures threatened by the court, or the precept of the superior, are suspended, but the obligation remains to observe what has been commanded by the court or the precept, unless the offender interposes appeal or recourse not only from the penalty but from the very sentence or precept. (Canon 2243.)

1528. Censures may be multiplied in one and the same subject, not only such of different species but also of the same species.

Censures *latae sententiae* are multiplied in the following manner: (1) if various crimes, to each of which a censure is attached, are committed, either by the same or by distinct actions; (2) if the same crime to which a censure is attached is committed repeatedly, in such manner that there are several distinct crimes; (3) if the same crime is punished with different censures by several superiors, and is committed once or repeatedly.

A censure inflicted *ab homine* is multiplied if there are sev-

eral precepts, or several sentences, or various distinct parts to the same precept or sentence, to each of which a censure is attached. (Canon 2244.)

1529. Some censures are reserved and others are not.

A censure inflicted *ab homine,* that is, by precept of a superior or by sentence in an ecclesiastical court, is reserved to the one imposing the censure or giving the sentence, or to his superior, his successor in office, or his delegate. Among the censures reserved *a jure,* that is by law, some are reserved to the Ordinary, others to the Holy See.

Those reserved to the Holy See are subdivided into three classes, *simpliciter, speciali,* and *specialissimo modo* reserved.

A censure incurred by the very fact of committing a crime (*latae sententiae*) is not reserved, unless the law or the precept explicitly states that it is. In case of doubt concerning the law itself (*dubium juris*) as well as in a doubt about the fact (*dubium facti*) the reservation does not hold. (Canon 2245.)

1530. A censure should not be reserved unless the peculiar gravity of the crime, and the necessity of maintaining ecclesiastical discipline and the morals of the faithful, demand the reservation.

Reservation is to be interpreted strictly.

The reservation of a censure which prevents the reception of the Sacraments—as, for instance, excommunication—implies the reservation of the sin, to which the censure is attached. If a person, however, is excused from the censure, or has been absolved from it outside confession, by a superior having jurisdiction in the external forum, the reservation of the sin ceases altogether. (Canon 2246.)

1531. If the censure is reserved to the Holy See, the Ordinary cannot attach to the same crime another censure, reserved to himself.

Reservation of a censure in some particular territory does not have any force outside the limits of that territory, even if the person who incurred the censure goes outside the territory precisely for the purpose of obtaining absolution. The censure *ab homine,* however, is reserved everywhere, so that the censured person cannot be absolved anywhere without due faculties.

If the confessor, in ignorance of the reservation, has ab-

solved a penitent from the censure and the sin, the absolution from the censure is valid except in the case of censures reserved to the Holy See *specialissimo modo,* and of censures imposed by a precept of a superior, or by a sentence in an ecclesiastical court. (Canon 2247.)

1532. Any censure once contracted cannot be removed except by legitimate absolution.

Absolution should not be denied whenever the offender ceases to be obstinate, as explained in Canon 2242, § 3; the one who absolves from the censure may, if the case demands it, impose an appropriate punitive penalty, or a penance, for the crime which had been committed.

If a censure has been removed by absolution, it does not revive except in a case where the penance or other obligation that had been imposed under express condition of relapse into the censure, has not been performed. (Canon 2248.)

1533. If a person has incurred several censures, he may be absolved from one while the others remain.

He who asks for absolution must indicate all cases from which he wants to be absolved, otherwise the absolution is valid only for the case he mentioned; if, however, the absolution was general, even though the petition referred to one particular case only, it is valid also for those cases which were concealed in good faith, with the exception of censures reserved to the Holy See *specialissimo modo,* but it does not avail for those concealed in bad faith. (Canon 2249.)

1534. In a censure that does not forbid the reception of the Sacraments—as, for example, suspension—the person, if otherwise well disposed, can be absolved from the sin while the censure remains.

If there is question, however, of a censure which forbids the reception of the Sacraments, the censured person cannot be absolved from the sins until he has first been absolved from the censure.

The absolution from censure in the Sacramental forum is included in the usual form prescribed in the ritualistic books for the absolution from sins; in the non-Sacramental forum absolution from a censure may be given in any form, but for the absolution from excommunication it is appropriate to use, as a rule, the formula contained in those same books. (Canon 2250.)

1535. If the absolution from a censure is given in the external forum, it holds good for both the external and the internal forum; if it was given in the internal forum the person who obtained such absolution may, if scandal is removed, conduct himself also in actions of the external forum as absolved, but, unless the absolution is proved in the external forum or lawfully presumed, the censure may be urged by the superior having jurisdiction in the external forum until absolution has been granted in the external forum, and the censured person must obey. (Canon 2251.)

1536. In danger of death any priest can absolve from all censures; but in two of these, namely, those reserved to the Holy See *specialissimo modo,* and those imposed by precept or by sentence in an ecclesiastical court, the person after recovery is bound to have recourse for the imposition of a penance to the S. Penitentiary, or to the bishop, or some one else having faculties to absolve from censures reserved to the Holy See *specialissimo modo,* and, in case of censures by precept or sentence, to the authority that imposed the precept or gave the sentence. If the convalescent neglects this obligation he falls again under the same censure. (Canon 2252.)

1537. Outside the case of danger of death the power to absolve from censures is regulated as follows:

1. from a censure which is not reserved, every priest may absolve in the Sacramental forum; outside Sacramental confession the power to absolve is limited to those persons who have jurisdiction over the offender in the external forum;

2. from a censure *ab homine* may absolve he who imposed the censure, his superior and his successor in office, and he may give this absolution even if the offender has since transferred his domicile or quasi-domicile outside the territory of jurisdiction of the one who inflicted the censure;

3. from a censure reserved *a jure* can absolve he who ordained the censure, or he to whom it is reserved, and their successors in office, their competent superiors, or their delegates. Wherefore, from a censure reserved to the *bishop or Ordinary,* any superior having ordinary jurisdiction in the external forum can absolve his subjects, and the local Ordinary can absolve within his territory also the transients. From a censure reserved to the Holy See can absolve the Holy See and others who have obtained from that authority the faculty to absolve, which is

called general if given for censures reserved to the Holy See *simpliciter;* special if given for cases reserved *speciali modo;* and most special if for cases reserved *specialissimo modo.* The special concession for more urgent cases is explained in the following Canon. (Canon 2253.)

1538. In cases where the censure *latae sententiae,* into which one has fallen, cannot be suffered without great danger of scandal or loss of good reputation, or when it is hard for the penitent to remain in sin until the faculty to absolve can be obtained from the superior, any confessor can in Sacramental confession absolve from any censure, no matter in what manner it is reserved; but he must impose the obligation on the penitent to have recourse within one month to the S. Penitentiary, or to a bishop, or another person having faculties from the Holy See for the *mandata,* i. e. a penance that will be imposed on him; the recourse may be made either personally by the penitent, or, at least, by letter sent through the confessor without mentioning the name of the penitent, which recourse is obligatory when it is possible without great inconvenience.

The penitent is not forbidden, after having received absolution in the manner just described, and even after recourse has been made by letter, to go to confession to another confessor who has delegated faculty to absolve, and having again confessed at least the sin to which the censure is attached obtain absolution; after this absolution the confessor shall give the *mandata* and the penitent shall not be obliged to the other *mandata* which will be issued by the superior in answer to the recourse.

If in some extraordinary case this recourse should be, morally speaking, impossible, the confessor may absolve without the obligation of recourse and impose, in addition to the ordinary appropriate penance, a special satisfaction for the censure, which he shall demand to be performed within a specified period of time; if the penitent neglects within the specified period of time to perform the penance and satisfaction imposed for the censure, he shall again fall into it. (Canon 2254.)

CHAPTER II.

Censures in Particular.

1539. There are three censures: (1) excommunication; (2) interdict; (3) suspension.

Excommunication can fall only on a physical person, and therefore, if it is sometimes imposed on a moral body or community, it is understood to affect only the individuals who cooperated in the offence. Both, interdict and suspension may be imposed also on a community as a legal person; excommunication and interdict affect also lay persons, suspension is a penalty for clerics only; an interdict may affect also a place. An excommunication is always a censure, interdict and suspension may be either censures or punitive penalties, but in case of doubt they are considered censures. (Canon 2255.)

1540. In the following Canons it is to be observed that:

1. by the term of *Divine offices* are meant the functions of the power of orders, which by the institution of Christ or of the Church are ordained for Divine worship and may be exercised only by the clergy;

2. by the term of legal ecclesiastical actions are understood: the office of administrator of ecclesiastical goods; to act as judge, auditor, relator, *defensor vinculi,* promotor of justice and of faith, notary, chancellor, *cursor, apparitor,* lawyer and procurator in ecclesiastical cases; the office of God-parents or sponsors in the Sacraments of Baptism and Confirmation; the right to vote in ecclesiastical elections; the exercise of the rights of patronage. (Canon 2256.)

Article I. Excommunication.

1541. Excommunication is a censure by which a person is excluded from communion with the faithful, with the effects enumerated in the following Canons and which cannot be separated one from the other.

Excommunication is also called *anathema,* especially when inflicted with the formalities described in the Pontificale Romanum. (Canon 2257.)

1542. The excommunicated persons may be either *excommunicati vitandi,* or *tolerati.*

No one is considered a *vitandus* unless he has been excommunicated by name by the Holy See, has been publicly denounced as such, and explicitly declared a *vitandus* in the decree or canonical sentence. He who lays violent hands on the Roman Pontiff becomes by this very deed an *excommunicatus vitandus,* according to Canon 2343, § 1, n. 1. (Canon 2258.)

1543. Every excommunicated person is deprived of the right to assist at Divine offices, but he may be present at sermons.

If an *excommunicatus toleratus* passively assists at Divine services, he need not be expelled, but a *vitandus* must be removed; if this cannot be done the Divine services must be stopped if it can be done without great inconvenience. From active participation in Divine services must even be excluded the *excommunicatus toleratus* whose excommunication is publicly known or who has been excommunicated in an ecclesiastical court by a declaratory or condemnatory sentence. (Canon 2259.)

1544. Every excommunicated person is forbidden to receive the Sacraments; after a declaratory or condemnatory sentence he cannot even make proper use of the sacramentals of the Church.

In reference to ecclesiastical burial the law of Canon 1240, § 1, n. 2, shall be observed, which forbids to give such burial to persons excommunicated and interdicted by a declaratory or condemnatory sentence in an ecclesiastical court. (Canon 2260.)

1545. An excommunicated priest is forbidden to celebrate Holy Mass and to administer the Sacraments and sacramentals, with the following exceptions:

The faithful may, saving the exceptions in the following paragraph, ask for any good reason an excommunicated priest for the Sacraments and sacramentals, above all when there are no other ministers, in which case the excommunicated priest who is asked to administer the Sacraments may do so, and he is not obliged to inquire for the reason why he was requested.

From an *excommunicatus vitandus* as well as from another excommunicated priest whose excommunication was pronounced in the ecclesiastical court by either condemnatory or declaratory sentence, the faithful may only in danger of death ask for sacramental absolution, in accordance with Canons 882 and 2252, and also, if there are no other ministers present, for the other Sacraments and sacramentals. (Canon 2261.)

1546. An excommunicated person is deprived of the indulgences, suffrages and public prayers of the Church.

But it is not forbidden (1) that the faithful pray for him privately; (2) that the priests privately apply Holy Mass for him, provided scandal is avoided; for an *excommunicatus vitan-*

dus Holy Mass may be applied for his conversion only. (Canon 2262.)

1547. An excommunicated person is excluded from legal ecclesiastical actions within the limits specified in the various places in law; he cannot act in ecclesiastical courts except in as far as Canon 1654 permits, which Canon ordains that an *excommunicatus vitandus,* or one whose excommunication has been inflicted by condemnatory or declaratory sentence, shall personally be allowed to act in court only for the purpose to attack the justice and legitimacy of the excommunication; by proxy they may act to avert any other spiritual damage; in all other cases they are forbidden to act. All other excommunicated persons are generally allowed to act in court. (Canon 2263.)

1548. Acts of jurisdiction, both of the external and the internal forum, exercised by an excommunicated person are unlawful; if the excommunication has been pronounced by condemnatory or declaratory sentence these acts of jurisdiction are invalid, saving the exception of Canon 2261, § 3, namely if asked to administer the Sacraments in danger of death; otherwise they are valid and even licit, namely when requested by the faithful in accordance with the regulations of Canon 2261, § 2. (Canon 2264.)

1549. Every excommunicated person

1. is forbidden to exercise the rights of election, presentation, nomination;

2. cannot acquire dignities, offices, benefices, ecclesiastical pensions, nor any other offices in the Church;

3. cannot be promoted to orders.

An act done against the rule of nn. 1 and 2, is not invalid, unless the acting party be an *excommunicatus vitandus,* or was excommunicated by condemnatory or declaratory sentence; if such sentence has been pronounced the excommunicated person cannot, moreover, validly obtain any papal favor, unless mention is made of the excommunication in the Pontifical rescript. (Canon 2265.)

1550. After a condemnatory or declaratory sentence the excommunicated person remains deprived of the fruits of the dignity, office, benefice, pension, position, which he has in the Church; the *excommunicatus vitandus* is deprived of the very dignity, office, benefice, pension, position. (Canon 2266.)

1551. The faithful are obliged to avoid intercourse even in secular affairs with an *excommunicatus vitandus,* except husband or wife, parents, children, servants, subjects, and in general all who have a reasonable cause for dealing with such excommunicated persons. (Canon 2267.)

Article II. Interdict.

1552. The interdict is a censure by which the faithful, though remaining in communion with the Church, are forbidden those sacred functions which are enumerated in the following Canons.

The prohibition is made either directly, by a personal interdict which prohibits to the same persons the use of the specified spiritual benefits, or indirectly, by a local interdict which forbids the administration or reception of some Sacraments and sacramentals in certain places. (Canon 2268.)

1553. A *general interdict,* either local for the *territory* of a *diocese* or a *country,* or personal, for the *people* of the *diocese* or *country,* can be issued by the Holy See only, or at its command; the bishop may issue a general interdict for a parish or its people, and a particular interdict both local *and* personal.

The personal interdict follows the persons wherever they go; the local interdict does not bind outside the interdicted place, but in that place all persons, also outsiders and those exempt, unless they have a special privilege, are obliged to observe the interdict. (Canon 2269.)

1554. The local interdict, whether general or particular, does not forbid the administration of the Sacraments and sacramentals to the dying, but it prohibits in that place any Divine services or sacred rites, with the exceptions mentioned in § 2 of this Canon and in Canons 2271 and 2272.

On Christmas, Easter, Pentecost, Corpus Christi, and the Assumption of the Blessed Virgin Mary, the local interdict is suspended and only the conferring of orders and the solemn blessing of marriage are forbidden. (Canon 2270.)

1555. If the interdict is a local general one and the decree does not explicitly state the contrary, the following rules govern:

1. The clerics, provided they are not themselves personally interdicted, are allowed to hold privately and behind closed doors

Divine services and sacred functions in any church or oratory, but in silence and without ringing of church bells.

2. In the cathedral and in parochial churches and in any kind of a church which is the only one in a town, and in these churches only, one Holy Mass is allowed to be celebrated, furthermore there is allowed the keeping of the Blessed Sacrament, the administration of Baptism, of Eucharist, Penance, marriage without the nuptial blessing, funerals without any solemnity, blessing of the baptismal water and of the holy oils, preaching of the Word of God. In these functions, however, singing and display in sacred utensils and vestments, ringing of church bells, playing of the organ and of other musical instruments is forbidden. The holy Viaticum shall be privately brought to the sick. (Canon 2271.)

1556. In a local particular interdict, if a certain altar or a shrine is interdicted in a church, no Divine services and sacred functions can be held at such.

If the cemetery is interdicted, the bodies of the faithful may be buried there but without any ecclesiastical rite.

If the interdict was issued against a certain church or oratory: (1) if the church is a capitular one and the Chapter is not interdicted, the rule of Canon 2271, n. 1, holds good, unless the decree of the interdict demands that the conventual Mass and the canonical hours be kept in another church or oratory; (2) if it is a parochial church, the law of Canon 2271, n. 2, shall be observed, unless the decree of the interdict substitutes another church for parochial functions for the time of the interdict. (Canon 2272.)

1557. If a city is placed under an interdict, also the suburbs are interdicted, not excepting exempt places, and the cathedral itself; if a church is interdicted, the adjoining chapels are also under the interdict, not, however, the cemetery; if a shrine in a church is interdicted, the whole church is not interdicted, and if the cemetery is interdicted, the church, though adjoining it, is not under the interdict but all oratories in the cemetery are interdicted with the cemetery. (Canon 2273.)

1558. If a community or college has committed a crime, the interdict can be placed either on the guilty parties individually, or on the community as such, or on both, the community and the guilty individuals.

If the first is done, the rule of Canon 2275 is to be followed.

If the second kind of interdict is imposed, the community or college cannot exercise any spiritual right proper to the community as such.

If the third kind of interdict is issued, it has the combined effects. (Canon 2274.)

1559. Personally interdicted persons:

1. are not allowed to celebrate Divine offices nor to assist at them, with the exception of sermons. If they assist passively they need not to be expelled, but if the interdict was imposed by a condemnatory or declaratory sentence, or is otherwise notorious, they must be kept from active assistance which imports any participation in the celebration of Divine offices;

2. they are forbidden to consecrate and to administer or receive the Sacraments and sacramentals, in the manner specified in Canons 2260, § 1, and 2261;

3. interdicted persons are also subject to the restrictions of Canon 2265;

4. they are deprived of ecclesiastical burial, if the interdict has been imposed by condemnatory or declaratory sentence, as stated in Canon 1240, § 1, n. 2. (Canon 2275.)

1560. The person who is under a local interdict, or under an interdict of a community or college, without having personally given any cause for the same may, if otherwise free from censure, and properly disposed may receive without absolution from the interdict or any other satisfaction the Sacraments in accordance with the foregoing Canons. (Canon 2276.)

1561. The interdict *ab ingressu ecclesiae* means the prohibition to celebrate Divine offices in a church, or to assist at them, or to be buried from the church. If, however, such person assists he need not be expelled, nor must his body be removed if he was buried in a church. (Canon 2277.)

Article III. Suspension.

1562. Suspension is a censure by which a cleric is deprived of the rights of his office, or benefice, or of both conjointly.

The effects of suspension may also be separated one from the other, but unless the contrary is evident from other sources, suspension imposed in general includes all the effects enumerated in the Canons of this Article. Suspension from office *or* from

benefice, however, imports only all the effects of either species. (Canon 2278.)

1563. Suspension *from office* simply, without any additional limitation, forbids not only any act of the power of orders and jurisdiction, but also of mere administration proper to an office, with the exception only of the administration of the goods of one's own benefice.

Suspension:

1. from *jurisdiction* (*ab jurisdictione*) in general forbids every act of the power of jurisdiction, in either form, and of both, ordinary and delegated jurisdiction;

2. *a divinis* forbids every act of the power of orders which one possesses, either by sacred ordination or by privilege;

3. from *orders* (*ab ordinibus*) forbids any act of the power of orders received by ordination;

4. From *sacred orders* (*a sacris ordinibus*) forbids the exercise of the powers of major orders;

5. from the *exercise of a certain definite order* (*a certo et definito ordine exercendo*) forbids any act of the specified order; the person suspended is, moreover, forbidden to confer the same order, and to receive a higher order, and if he should have received such an order while under suspension, he is forbidden to exercise the same;

6. from the *conferring of a certain specified order* (*a certo et definito ordine conferendo*) forbids the conferring of the order specified, not, however, of an inferior or superior order;

7. from a *certain specified ministry* (*a certo et definito ministerio*) for instance the hearing of confessions, or from a certain specified office, for instance a position to which the care of souls is attached, forbids every act of that ministry, or office;

8. from the *pontifical order* (*ab ordine pontificali*) forbids the exercise of every act of the powers of the order of bishops;

9. from the *pontificals* (*a pontificalibus*) forbids the exercise of pontifical functions, which, according to Canon 337, § 2, are those pontifical ceremonies at which the rubrics require the bishop to use mitre and crozier. (Canon 2279.)

1564. Suspension *from the benefice* (*a beneficio*) deprives of the revenue of the benefices with the exception of dwelling in the residence belonging to the benefice, but that suspension does not take away the right of administration of the goods of the

benefice, unless the decree, or sentence, of suspension does explicitly deprive the one so suspended of the right of administration, and give it to another person.

If the beneficiary in spite of the suspension does take the revenue of the benefice, he is obliged to make restitution and he can be forced by canonical penalties to make restitution, if necessary. (Canon 2280.)

1565. If suspension in general is inflicted, or a suspension from office or benefice, it affects all offices or benefices which the person suspended holds in the diocese of the superior who issued the suspension unless the contrary is made evident by the wording of the suspension. (Canon 2281.)

1566. The local Ordinary cannot suspend a cleric from a specified office or benefice which he holds in another diocese, but a suspension *latae sententiae,* inflicted by the common law, affects all offices or benefices no matter in what diocese they are held by the one suspended. (Canon 2282.)

1567. The actions forbidden to an excommunicated person by Canon 2265 are forbidden also to suspended persons. (Canon 2283.)

1568. If a censure of suspension was incurred forbidding the administration of the Sacraments and sacramentals, the rule of Canon 2261 is to be observed. If a censure of suspension was incurred forbidding acts of jurisdiction either in the internal or external forum, such an act if nevertheless performed is invalid, as for instance sacramental absolution, if the suspension was inflicted by a condemnatory or declaratory sentence of an ecclesiastical court, or the superior inflicting the suspension declared explicitly that he thereby revokes the very power of jurisdiction; otherwise the act is only *illicit,* and if the faithful request his ministry, as specified in Canon 2261, § 2, the act is even licit. (Canon 2284.)

1569. If a community or college of clerics committed a crime, suspension may be inflicted either against the individual delinquents, or on the community as such, or on both, delinquents and community.

If the delinquent individuals are suspended, the Canons of this article are to be observed.

If the community as such is suspended, the community is

forbidden to exercise the spiritual rights proper to the community as a legal body.

If both, individual delinquents and community, are suspended, the suspension has the combined effects so that not only the guilty individuals suffer, but also the community in those rights which require the action of the community as such. (Canon 2285.)

TITLE IX.

Punitive Penalties.

1570. Punitive penalties are those which directly tend toward the expiation of crime, so that their remission does not depend on the cessation of obstinacy of the delinquent. (Canon 2286.)

1571. From the infliction of punitive penalties the law grants appeal or recourse *in suspensivo,* that is to say, the penalties are not taking effect pending the appeal unless the law in some case explicitly provides otherwise. (Canon 2287.)

1572. With the exception of the penalties of degradation, deposition, privation of office or benefice, and of cases where the reparation of scandal demands punishment of the delinquent, it is left to the prudence of the judge to suspend the execution of an ordinary penalty inflicted by condemnatory sentence, if the delinquent has committed an offence for the first time after a laudable life, under condition, however, that the guilty party if he commit another offence within the next three years, either of the same or of a different kind, shall incur the penalty of both the past offence and the new crime. (Canon 2288.)

1573. A punitive penalty ceases either by completion of the term of penance, or by dispensation granted by him who has legitimate power to dispense, according to Canon 2236. (Canon 2289.)

1574. In more urgent, occult cases, if the delinquent would have to betray himself, with resulting loss of his good reputation and danger of scandal, by observing the punitive penalty *latae sententiae* which he incurred, any confessor may in the sacramental forum suspend the obligation of performing the penalty, but he must impose the obligation to have recourse within one month by letter and through the confessor, if this can be done without great inconvenience, to the S. Penitentiary, or to the

bishop if he has faculties, and to accept their orders; the name of the delinquent is not to be mentioned.

If in some extraordinary case this recourse is not possible, the confessor himself can grant the dispensation, according to Canon 2254, § 3. (Canon 2290.)

CHAPTER I.

Common Punitive Penalties.

1575. Punitive penalties, which may affect all the faithful in proportion to the gravity of the offences, are the following:

1. a local interdict, or an interdict on a community or college, either perpetually or for a definite period of time, or *ad beneplacitum superioris,* that is to say, as long as the superior does not lift the interdict;

2. an interdict from entering a church (*ab ingressu ecclesiae*) either perpetually, or for a fixed space of time, or at the will of the superior;

3. penal transfer, or suppression, of an episcopal see or a parish;

4. infamy of law;

5. privation of ecclesiastical burial, according to Canon 1240, § 1;

6. privation of the sacramentals;

7. privation or suspension for a time of a pension which one receives from a church or from ecclesiastical goods, or of any other ecclesiastical right or privilege;

8. prohibition to exercise legal ecclesiastical actions;

9. inability to receive in the church ecclesiastical favors or positions which do not require the clerical state, or to receive academical degrees conferred by ecclesiastical authority;

10. privation for a time of the position, faculty or favor which one has already received;

11. privation of the right of precedence, of active or passive vote, or of the right to wear titles, insignia and dress of honor conceded by the Church to distinguished clerics or laymen;

12. money fines. (Canon 2291.)

1576. The penal suppression, or transfer, of an episcopal see is reserved to the Roman Pontiff; that of a parish can be decided by the Ordinary only with the advice of the Chapter, or of the diocesan consultors. (Canon 2292.)

1577. Infamy is divided into infamy of law and of fact.

Infamy of law is that which is specified in certain cases by the common law.

Infamy of fact is incurred when a person has lost his good reputation with good and seriously-minded Catholics, on account of some crime which he committed, or wicked conduct, the judgment of which belongs to the Ordinary.

Neither kind of infamy will affect the person's blood relations or relations by marriage, except in the case where the pastor keeps in his house relations who lead a scandalous life whom he is bound to eject from his house, and if he does not do so after having been warned by the bishop, he may be deprived of his parish. Cf. Canon 2147, § 2, n. 3. (Canon 2293.)

1578. He who suffers from infamy of law is not only irregular, as stated in Canon 984, n. 5, but is, moreover, incapable of acquiring ecclesiastical benefices, pensions, offices and dignities, and of performing legal ecclesiastical actions, of exercising any ecclesiastical right or office, and, finally, he must be kept from the exercise of the ministry in sacred functions.

He who suffers from infamy of fact must be excluded from receiving any orders, according to Canon 987, n. 7, from dignities, benefices, ecclesiastical offices, and also from the exercise of the sacred ministry and from legal ecclesiastical actions. (Canon 2294.)

1579. Infamy of law ceases only by dispensation granted by the Holy See; infamy of fact ceases when the good reputation has been reestablished with good and seriously-minded Catholics, considering all circumstances, and especially amendment of the guilty party made long ago. The bishop is to judge concerning the cessation of infamy of fact. (Canon 2295.)

1580. If there is question of things for the acquisition of which the common law makes a person capable, the penalty of inhability can be inflicted by the Apostolic See alone. Thus, for instance, the diriment impediments in marriage, or irregularities for reception of orders, can be established by no authority inferior to the Holy See.

Rights which have already been acquired are not lost by a supervening inhability, unless the penalty of privation is added to this inhability by the law. (Canon 2296.)

1581. Money fines inflicted by the common law, of which

the same law does not specify what is to be done with the money, and other fines imposed or to be imposed by particular laws are to be employed by the local Ordinaries for pious purposes, not, however, for the benefit of the episcopal *mensa* or for that of the Chapter. (Canon 2297.)

CHAPTER II.

Punitive Penalties Special to the Clergy.

1582. Punitive penalties inflicted on clerics only are the following:

1. prohibition to exercise the sacred ministry except in one specified church;
2. suspension, forever or for a definite length of time, or at the discretion (*ad beneplacitum*) of the superior;
3. transfer for punishment from an office or benefice held by the cleric to another, inferior one;
4. privation of some right connected with the benefice or office;
5. inhability either for all or some dignities, offices, benefices and other positions proper to the clergy;
6. penal privation of the benefice or office, with or without a pension;
7. prohibition to stay in a certain place or territory;
8. command to stay in a certain place or territory;
9. privation of the ecclesiastical garb for a time;
10. deposition;
11. perpetual privation of the ecclesiastical garb;
12. degradation. (Canon 2298.)

1583. If a cleric obtains an irremovable benefice, he can be deprived of the same only in the cases expressed by law; if he has a removable benefice, he may be deprived of it also for other, reasonable causes.

Clerics who possess a benefice, office, dignity, may be forbidden for some time the exercise of merely some ministry connected with their position, for instance, to preach, to hear confessions, etc.

The cleric cannot be deprived of the benefice or pension under the title of which he was ordained unless other provision is made for his proper support. If he does not amend and lead a

life in keeping with the clerical state, then, according to Canons 2303 and 2304, the Church may expel him from the ranks of the clergy, without being responsible for his maintenance. (Canon 2299.)

1584. If a cleric gives great scandal, and does not amend after being admonished, and the scandal cannot be removed in any other way, he may in the meantime be deprived of the right to wear the ecclesiastical garb. This privation, while it lasts, imports the prohibition to exercise any functions of the ecclesiastical ministry, and the privation of the clerical privileges. (Canon 2300.)

1585. The Ordinary cannot command a cleric to stay in a specified place outside his own diocese unless he obtains the consent of the Ordinary of that place, or there is question of a house of penance or correction destined not only for the clergy of one diocese but also for externs, or of a religious exempt house where the consent of the superior of the house suffices. (Canon 2301.)

1586. The command, as well as the prohibition, to stay in a specified place, and the placing of a cleric in a house of penance or in a religious house, especially if this is to last for a long period of time, shall be imposed only in more serious cases, in which according to the good judgment of the Ordinary these penalties are necessary for the correction of the cleric and for the reparation of the scandal he has given. (Canon 2302.)

1587. Deposition imports the suspension from office as well as the inability for promotion to any offices, dignities, benefices, pensions, positions in the Church, as also the privation from those which the guilty cleric actually has, though he was ordained under their title. The obligations arising from ordination, as for instance the obligation of the Divine office, celibacy, etc., for those in major orders, and also the clerical privileges remain to the deposed clerics.

If the cleric loses by the penalty of deposition the benefice or office which served as a title for his ordination, and should not have any other revenue for decent maintenance, the Ordinary should out of charity provide for him in the best possible way, in order that the deposed cleric may not be forced to go begging to the disgrace of the clerical state.

The penalty of deposition cannot be inflicted except in the cases expressed in law. (Canon 2303.)

1588. If the deposed cleric does not show any signs of amendment, and especially if he continues to give scandal and does not change his evil ways after being admonished, the Ordinary may deprive him forever of the right to wear the ecclesiastical garb.

This privation imports the loss of the clerical privileges and cessation of the obligation of the Ordinary to provide maintenance for him as referred to in Canon 2303, § 2. (Canon 2304.)

1589. Degradation includes deposition, perpetual privation of the ecclesiastical garb, and reduction of the cleric to the state of the laity.

The penalty of degradation can be inflicted only for a crime to which the law attaches such a penalty, or if the cleric who has already been deposed and deprived of the clerical garb, has continued for a year to give great scandal.

The degradation is either *verbal,* or *by edict,* i. e., inflicted by sentence only, which, however, has all its juridical effect immediately without any execution; or *real,* if the formalities prescribed in the Pontificale Romanum are observed. (Canon 2305.)

TITLE X.

Penal Remedies and Penances.

CHAPTER I.

Penal Remedies.

1590. Penal remedies are:

1. monition,
2. correction,
3. precept,
4. surveillance. (Canon 2306.)

1591. The Ordinary shall admonish a person who stays in proximate occasion of committing an offence, or against whom there is a grave suspicion of having committed an offence, after inquisition by the Ordinary has preceded. The monition may be tendered either by the Ordinary in person, or by another person delegated by him. (Canon 2307.)

1592. If by the conduct of some person scandal or grave disturbance of order arises, reproof is to be given by the Ordi-

nary or his delegate, which may also be done by letter. The reprimand is to be accommodated to the peculiar circumstances of the person, as well as to the fact in question. (Canon 2308.)

1593. The monition as well as the reprimand may be either public or secret.

The public reprimand or monition is to be given either before a notary of the ecclesiastical Curia, or before two witnesses, or by letter, in such way that the receipt of the letter as well as of its contents can be proved by some document. If sent by letter, the notary should make an exact copy of the letter which was mailed, and which he should keep for future reference in proof of the contents of the monition, and proof of receipt of the letter in the form of the return receipt of the registered letter is also to be kept.

A public reprimand can be given only to a guilty party who has been convicted of the offence or has confessed to it; it is judicial, if given by the judge in court, or by the Ordinary before the criminal trial commences.

The judicial reprimand either takes the place of punishment, or is given to increase the punishment, especially when there is question of a *recidivus*.

If the monition and reprimand were given secretly, proof of the same must nevertheless be had by some document, which is to be preserved in the secret archives of the Curia.

The reprimand as well as the monition may be given either once or repeatedly, according to the prudent judgment of the superior. (Canon 2309.)

1594. If monitions and reprimands have been given without producing results, or if no effect can be hoped to be secured by them, a precept should be issued in which is to be accurately indicated what the person in question is to do and to avoid, together with the threat of the penalty in case of transgression. (Canon 2310.)

1595. If the gravity of the case demands it, and especially if there is question of a person who is in danger of relapsing into the same crime, the Ordinary may subject him to surveillance.

Surveillance may also be prescribed for the purpose of increasing the punishment, especially against *recidivi*. (Canon 2311.)

CHAPTER II.

Penances.

1596. Penances in the external forum are imposed in order that a delinquent may either escape the penalty which might be imposed on him if a canonical trial were to be instituted against him, or also that a delinquent may obtain absolution or dispensation from a penalty which he has contracted. Thus, for instance, when a priest applies for faculty to absolve a penitent from a censure which he has incurred, the Holy See or the bishop imposes a penance which must be fulfilled by the penitent who asks for absolution from the censure.

For an occult offence or transgression no public penance should ever be imposed.

The penances are to be modified not so much in proportion to the gravity of the offence as rather to the contrition of the penitent, taking into account the condition of the person and the circumstances of the offence. (Canon 2312.)

1597. The principal penances are the precepts:

1. to recite specified prayers;
2. to undertake a pious pilgrimage or other works of piety;
3. to observe a special fast;
4. to give alms for pious purposes;
5. to make a retreat in a pious institution or a religious house for some days.

The Ordinary may add to penances the penal remedies of monitions and reprimand. (Canon 2313.)

PART III.

PENALTIES FOR INDIVIDUAL CRIMES.

1598. Canons 2314-2414 deal with the penalties inflicted by the Code on various, specified crimes. Some of these penalties are incurred by the very fact of committing the crime (*ipso facto,* or *latae sententiae*), others are to be imposed by the competent authority (*ferendae sententiae*) in case the offence is brought to the notice of the ecclesiastical superior. Penalties *ferendae sententiae* are of the nature of a precept to the ecclesiastical judge to impose the specified penalty if the party is proved guilty in court.

CHAPTER I.

Penalties Incurred "Ipso Facto" ("Latae Sententiae").

I. Excommunications Reserved to the Holy See "Specialissimo Modo":

1599. 1. such excommunication is visited upon him who desecrates the consecrated particles, or carries them off for an evil purpose, or keeps them for that end (Canon 2320);

2. on him who lays violent hands on the Roman Pontiff. Such a person becomes *ipso facto* an *excommunicatus vitandus* (Canon 2343);

3. On a priest who absolves, or makes believe to absolve, his accomplice in a sin against the Sixth Commandment. Even in danger of death the priest cannot without incurring excommunication absolve his accomplice so long as another priest can be had without great danger of betraying the priest and giving scandal. except in case the sick person refuses to confess to another priest. The excommunication is incurred also when the penitent does not mention the sin of complicity, if the guilty confessor directly or indirectly induced the penitent not to confess the sin (Canon 2367);

4. a confessor who presumes to violate directly the seal of confession (Canon 2369).

II. Excommunications Reserved to the Holy See "Speciali Modo" Befall:

1600. 1. all apostates from the Christian faith, and all heretics and schismatics (Canon 2314);

2. publishers of books written by apostates, heretics, and schismatics, who advance the cause of apostacy, heresy, or schism; also those who defend such books, and others condemned by name through Apostolic Letters; finally those who, knowing of the censure, read or keep such books without due permission (Canon 2318);

3. those who are not ordained priests and pretend to celebrate Holy Mass or hear confessions (Canon 2322);

4. all persons of whatever station or dignity, even that of the Cardinalate, who appeal from the laws, decrees, or commands of the reigning Roman Pontiff to a General Council of the Church (Canon 2332);

5. those who have recourse to the civil authorities in order to impede the letters or documents of the Holy See or of its Legates, preventing either directly or indirectly their promulgation or execution, as also those who on account of these letters or documents injure or terrify the authors of the same, or others on account of them (Canon 2333);

6. those who publish laws, orders, and decrees against the liberty and the rights of the Church, as also those who, either directly or indirectly, impede the exercise of ecclesiastical jurisdiction both of the internal and external forum by having for this purpose recourse to any lay authority (Canon 2334);

7. those who dare without due permission of the Church to cite before the civil court a Cardinal, Papal Legate, or major official of the Roman Curia on matters arising from their office, or their own Ordinary (Canon 2341);

8. those who lay violent hands on a Cardinal or a legate of the Pope, or on patriarchs, archbishops, and bishops, even though merely titular (Canon 2343);

9. those who usurp or retain, by themselves or through others, goods and rights belonging to the See of Rome (Canon 2345);

10. those who circulate false letters under the name of the Holy See, or falsify papal letters, decrees, rescripts, or knowingly use such letters (Canon 2360);

11. those who wrongfully denounce to a superior, either by themselves or through others, a confessor of the crime of solicitation (Canon 2363).

III. Excommunications Reserved to the Holy See "Simpliciter" Befall:

1601. 1. profiteers from indulgences (Canon 2327);

2. those who join the sect of the Masons, or other societies of the same nature that scheme against the Church or the lawful civil authority (Canon 2335);

3. those who without due faculties presume to absolve

from an excommunication reserved either *specialissimo* or *speciali modo* to the Holy See (Canon 2338);

4. those who aid or abet any one in a crime for which he was declared *excommunicatus vitandus*. Clerics who knowingly, and of their own accord, participate with such a one *in divinis*, and who admit him to Divine services (Canon 2338);

5. those who bring into the civil court a bishop (not of their own diocese), or a titular bishop, an abbot, a prelate *nullius*, or any of the supreme superiors of religious communities approved by Rome (Canon 2341);

6. persons of either sex who enter without due permission the enclosure of nuns of solemn vows, and those who admit them to such place. Likewise women who enter the enclosure of religious men of solemn vows, as also superiors and others who admit them. Finally, nuns of papal enclosure who go outside of it without due permission (Canon 2342);

7. those who retain unjustly Church property of any kind, either by themselves or through others, or who thwart those who have a right to the income from Church goods. Only after having made full restitution can they apply to the Holy See for absolution (Canon 2346);

8. those who fight a duel, or who make, or accept, a challenge thereto, or who give any aid to it, or favor it, in any way, as also those who purposely go to see the duel, who permit it, or do not stop it in as far as they can (Canon 2351);

9. clerics in major orders and religious of solemn vows who attempt to contract a civil marriage, as also all persons attempting to contract it with them (Canon 2388);

10. those who are guilty of simony in the conferring of an office, benefice, and ecclesiastical dignity (Canon 2392, § 1);

11. the vicar capitular as well as any of the members of the cathedral Chapter, as also others outside the episcopal Curia, who steal, destroy, conceal, or substantially alter any document belonging to the episcopal Curia (Canon 2405).

IV. Excommunications Reserved to the Ordinary Are Those of

1602. 1. Catholics who marry before a non-Catholic minister (Canon 2319);

2. Catholics who contract marriage with the explicit or im-

plicit understanding that either all or some of their children are to be brought up as non-Catholics (Canon 2319);

3. Catholics who knowingly present their children to a non-Catholic minister for Baptism (Canon 2319);

4. Catholic parents, or those who take the place of the parents, who knowingly have their children brought up or instructed in a non-Catholic persuasion (Canon 2319);

5. those who prepare bogus relics, or who knowingly sell, distribute or expose them for public veneration (Canon 2326);

6. those who lay violent hands on a cleric or a religious (Canon 2343);

7. those who procure abortion, not excepting the mother, if abortion has actually taken place (Canon 2350);

8. Religious of non-exempt communities who apostatize from the religious life. Apostates of exempt orders incur excommunication reserved to the major superiors of the respective Order (Canon 2385);

9. Religious of simple perpetual vows, both in Orders and congregations, who contract marriage without dispensation, and the persons thus contracting with them (Canon 2388).

V. Excommunications Not Reserved Are Those of

1603. 1. authors and publishers who without due permission publish books of the Bible, or annotations and commentaries on the same (Canon 2318, § 2);

2. those who dare to demand, or force, the Church to give ecclesiastical burial to infidels, apostates, and others excluded from ecclesiastical burial (Canon 2339);

3. those who alienate church property and knowingly fail to obtain the *beneplacitum* of the Holy See, if the goods are of great value, namely, worth more than six thousand dollars. All those implicated in such transaction by giving, receiving, or consenting, fall under the censure (Canon 2347);

4. those who force another in any way to enter the clerical life, or a religious community, or to take vows, whether solemn or simple, temporary or perpetual (Canon 2352);

5. the faithful who neglect to denounce within one month the priest guilty of solicitation in confession (Canon 2368, § 2).

VI. Interdicts Incurred "Ipso Facto."

1604. 1. An interdict reserved *speciali modo* to the Holy See is incurred by any university, college, Chapter, and other community of whatsoever kind, that appeals from the orders and decrees of the reigning Sovereign Pontiff to a General Council of the Church. (Canon 2332.)

2. Those who knowingly celebrate, or make another celebrate, Divine offices in places that are interdicted, as also those who admit excommunicated, or suspended, or interdicted clerics after their censure has been pronounced by condemnatory or declaratory sentence in court, incur an interdict *ab ingressu ecclesiae,* reserved to the authority whose law or command was violated. (Canon 2338, § 3.)

3. Those who are the cause of a local interdict, or of an interdict on a college or community, incur a personal interdict. (Canon 2338, § 4.) Though there is no mention made of the reservation of this interdict, it is understood that in case an authority inflicts an interdict on an individual or a community, no one can free such person from the punishment except the one who imposed the penalty, or his successor in office, or the higher authority.

4. An interdict *ab ingressu ecclesiae* reserved to the Ordinary falls on those who of their own accord give ecclesiastical burial to persons not entitled thereto by law. (Canon 2339.)

VII. Suspensions Incurred "Ipso Facto."

1605. 1. Suspensions reserved to the Holy See are incurred as follows:

(a) a consecrating bishop and his assistants, whether bishops or priests, who consecrate a bishop without leave from the Holy See are *ipso facto* suspended, as also the consecrated bishop, until the Holy See shall absolve them (Canon 2370);

(b) clerics promoted by simony to orders, and those administering or receiving any other Sacrament through simony, are *ipso facto* suspended (Canon 2371);

(c) those who presumptuously receive orders from one who is publicly excommunicated, suspended or interdicted, or from a notorious apostate, heretic, schismatic, incur suspension *a divinis,* reserved to the Holy See (Canon 2372);

(d) suspension from conferring orders for a year is in-

curred by: (1) those who ordain a non-subject without proper dimissorial letters; (2) those who ordain a subject without testimonial letters, if after the age of puberty the ordinandus lived in another diocese for six months, or, in case of soldiers, for three months; (3) those who ordain one to major orders without a proper canonical title; (4) those who ordain religious when they have no right to be ordained outside the diocese in which the monastery of the candidates is situated (Canon 2373);

(e) a religious in major orders whose profession is null and void on account of deceit on his part is *ipso facto* suspended until the Holy See dispense him (Canon 2387).

2. Suspensions reserved to the Ordinary:

1606. (a) Clerics who without due permission from the Ordinary sue in a civil court a priest, cleric or religious, incur suspension from office. (Canon 2341.)

(b) Religious who become fugitives (see Canon 644, § 3) incur suspension reserved to their own superior. (Canon 2386.)

3. Suspensions not reserved:

1607. (a) Priests who hear confessions without proper jurisdiction are *ipso facto* suspended *a divinis.* Those who presumptuously absolve from reserved sins are *ipso facto* suspended from the hearing of confessions (Canon 2366);

(b) those who are ordained without dimissorial letters, or with false ones, or before the canonical age, or by skipping some orders intentionally, are *ipso facto* suspended from the orders thus received (Canon 2374);

(c) suspension *a divinis* is incurred by those clerics who resign an office, benefice, or ecclesiastical dignity, into the hands of lay persons (Canon 2400);

(d) an abbot or a prelate *nullius,* who without necessity puts off his consecration for over three months after receiving the papal letters, *ipso facto* incurs suspension from jurisdiction (Canon 2402);

(e) a vicar capitular who gives dimissorial letters contrary to Canon 958, § 1, 3, incurs *ipso facto* suspension *a divinis* (Canon 2409);

(f) religious superiors, who, in violation of Canons 965-967, send their subjects for ordination to a strange bishop, are *ipso facto* suspended for one month from the celebration of Holy Mass (Canon 2410).

VIII. Infamy of Law Incurred "Ipso Facto":

1608. 1. Catholics who formally join a non-Catholic sect, or publicly adhere to it (Canon 2314, § 3);

2. desecrators of consecrated hosts (Canon 2320);

3. persons who dishonor the memory of the dead by theft or other crimes committed on the bodies or the graves of the deceased (Canon 2328);

4. those who lay violent hands on the Roman Pontiff, Cardinals, or Papal Legates (Canon 2343, § 1);

5. those who fight a duel, and their official witnesses (Canon 2351, § 2);

6. those who attempt a so-called civil marriage while their lawful husband or wife is living (Canon 2356);

7. lay persons lawfully condemned for crimes of impurity with minors under sixteen years of age, or for attack on women, sodomy, bawdry, incest (Canon 2357).

IX. Loss of Salary Is Incurred "Ipso Facto" by:

1609. 1. clerics who possess an office or benefice which requires residence, for instance a parish, *ipso facto* forfeit the right to the revenue or salary of their benefice or office, in proportion to the time during which they illegitimately absented themselves, and they are obliged to turn it over to the Ordinary who is to use the money for the benefit of a church, or pious institution, or as alms for the poor (Canon 2381, § 1);

2. persons who neglect to make the profession of faith required by Canon 1406 in the appointment to certain offices and benefices forfeit the right to the revenue or salary of the benefice or office for the time that without a legal excuse for such delay they neglected to make the profession (Canon 2403).

X. Loss of Office or Benefice Incurred "Ipso Facto" by:

1610. 1. voters in elections by a college or community of clerics or religious, in which lay persons interfere with the rights and the freedom of the Church, if the voters solicited, or of their own accord admitted, such interference, are *ipso facto* deprived of the right to vote in that election and the person thus elected, who knowingly consents to his election, becomes *ipso facto* in-

capable of acquiring the office or benefice in question (Canon 2390);

2. those who have been elected, nominated or presented to an ecclesiastical benefice, office, dignity, and assume possession or administration before they have received the necessary letters of confirmation or appointment become *ipso facto* incapable for that office or benefice; the Chapter or community who admits them before they have shown the letters of confirmation or appointment are *ipso facto* suspended *ad beneplacitum S. Sedis* from the right of election, nomination, presentation (Canon 2394);

3. he who knowingly accepts the appointment to an office, benefice, or dignity, which is not vacant by law, and allows himself to be put in possession of the same, becomes *ipso facto* incapable of obtaining the said office or benefice when it becomes actually vacant (Canon 2395);

4. clerics who have obtained peaceful possession of another office or benefice which is incompatible with the former, and presume to keep possession of both against the ruling of Canons 156 and 1439, are *ipso facto* deprived of both (Canon 2396);

5. he who has been promoted to an episcopal see and neglects to be consecrated within three months, as required by Canon 333, loses the revenue of the episcopal see, which is to be applied to the benefit of the cathedral church, and if he delays his consecration for three more months he is *ipso facto* deprived of the bishopric (Canon 2398).

CHAPTER II.

Penalties "Ferendae Sententiae."

I. Excommunication.

1611. Lay persons who are unfaithful in the handling of Mass stipends may be excommunicated by the Ordinary if their offence has been very serious. (Canon 2324.)

II. Interdict "Ferendae Sententiae."

1612. 1. By interdict *ab ingressu ecclesiae* are to be punished those who desecrate a church or cemetery by homicide or by copious spilling of blood by sinful action, by using the church or cemetery for impious or indecent purposes, by burial of an in-

fidel or of a person excommunicated by an ecclesiastical court (Canon 2329).

2. Bigamists who, in violation of the rights of their lawful partner, live in concubinage with another party, are after having been admonished without avail to be punished with personal interdict or with excommunication (Canon 2356).

3. Persons who violate the graves by theft, or abuse the bodies of the deceased for an evil purpose are to be punished with personal interdict (Canon 2328).

III. Suspensions "Ferendae Sententiae."

1613. 1. Clerics suspected of heresy are to be suspended *a divinis* (Canon 2315).

2. Clerics who knowingly teach or defend, either publicly or privately, a doctrine that has been condemned by the Holy See or by a General Council, even though not as heretical, are to be suspended from preaching, hearing of confessions, and any office of teaching (Canon 2317).

3. Priests who against the law of Canon 806, §1, and 808 say Holy Mass twice the same day without permission, or who celebrate without keeping the eucharistic fast, are to be suspended by the Ordinary for a time to be determined by him (Canon 2321).

4. Clerics who trade with Mass stipends, or do not fulfil the obligation of the stipend, or unjustly retain part of the stipend when having the Mass said by another, are to be punished severely by the Ordinary, and if the transgression is very serious they may be punished with suspension and privation of office or benefice (Canon 2324).

5. A pastor who incites the people by word or writing to impede the exercise of jurisdiction of his Ordinary, may, if the case is serious, be suspended. With the same penalty the Ordinary shall punish a priest who excites the people in any manner to impede the entrance into the parish of a priest lawfully appointed as its pastor or administrator (Canon 2337).

6. Clerics who violate the enclosure of nuns of solemn vows, besides incurring excommunication reserved to the Holy See *simplici modo,* are to be suspended for a time by the bishop (Canon 2342, § 1).

7. Secular or religious clerics in sacred orders, who live in concubinage and do not amend after having been admonished, are to be suspended *a divinis,* and to be deprived of the revenue of their office or benefice, by summary trial as outlined in Canons 2176-2181 (Canons 2359, § 1). If they have committed acts of impurity with persons under sixteen years of age, adultery, attack on women, bestiality, sodomy, bawdry, incest with blood relations or relations by marriage in the first degree, they are to be suspended, punished with infamy of law, and deprived of any office, benefice, dignity, and in more serious cases they are to be deposed (Canon 2359, § 2).

8. Priests who dare to give Confirmation without having this faculty either by law or by indult of the Holy See, are to be suspended. If they knowingly exceed the limits of their faculty or indult, they are *ipso facto* deprived of the faculty of conferring this Sacrament (Canon 2365).

9. Priests who commit the crime of solicitation in confession, as described in Canon 904, are to be suspended from the celebration of Holy Mass and the hearing of confessions, and if the gravity of the guilt demands it, they shall be declared incapable of hearing confessions, and be deprived of every benefice, office, dignity, active and passive vote, and declared incapable of ever acquiring these. In more serious cases they shall be degraded (Canon 2368, § 1).

10. Confessors who indirectly violate the seal of confession are to be punished with the penalties mentioned in the preceding paragraph (Canon 2369, § 1).

11. Clerics in major orders who fail in grave matters to observe the rites and ceremonies prescribed by the Church in the sacred ministry, shall after previous admonition be suspended (Canon 2378).

12. Clerics who do not wear the ecclesiastical garb (and, in countries where it is the custom, the tonsure) and have been admonished without result, shall, if in major orders, be suspended from their order unless they amend within one month; clerics in minor orders *ipso facto* forfeit the clerical state if they do not heed the admonition of the Ordinary (Canon 2379).

13. Clerics in major orders who abandon the office or work committed to them by their own Ordinary without his permission, shall be suspended *a divinis* for a time (Canon 2399).

14. If a cleric after legitimate privation of, or removal from, an office or benefice does not relinquish the same, he shall after previous admonition be forced to obey by suspension *a divinis,* and even by deposition if necessary (Canon 2401).

IV. Degradation.

1614. 1. Clerics who formally join, or publicly adhere to, a non-Catholic sect are to be degraded, if they do not amend after having been admonished (Canon 2314, § 3).

2. Clerics who lay violent hands on the Roman Pontiff are to be degraded (Canon 2343, § 1).

3. Clerics guilty of voluntary homicide are to be degraded (Canon 2354, § 2).

4. Clerics in minor orders guilty of very serious crimes against the Sixth Commandment, for instance fornication with minors under sixteen years of age, sodomy, incest, may be deprived of the clerical state (Canon 2358).

V. Deposition Is Incurred by:

1615. 1. clerics who desecrate the consecrated particles (Canon 2320);

2. clerics who violate the graves of the dead by theft, or abuse the bodies of the deceased for any evil purpose (Canon 2328);

3. clerics guilty of procuring abortion (Canon 2350).

VI. Suspicion of Heresy Falls on:

1616. 1. persons who knowingly and of their own accord help to propagate heresy in any manner, or who take an active part in the Divine worship of non-Catholics, as forbidden by Canon 1258 (Canon 2316);

2. persons who contract marriage with the understanding that all or some of their children are to be raised as non-Catholics; parents who have their children baptized by a non-Catholic minister, and parents and guardians who have their charges instructed in a non-Catholic sect (Canon 2319);

3. persons who desecrate consecrated particles (Canon 2320);

4. persons of any state or dignity who appeal from the

laws, decrees, orders of the Roman Pontiff to a General Council (Canon 2332);

5. persons who continue obstinately in the censure of excommunication for one year (Canon 2340, § 1);

6. all persons, not excluding those in the episcopal dignity, who knowingly, through simony, ordain others, or are ordained, and minister or receive the Sacraments (Canon 2371).

Canon 2315 provides that persons suspected of heresy are to be admonished to remove the cause of the suspicion, and if they fail to do so they are, if laymen, to be deprived of the right to legal actions; while a cleric, after a second admonition, is to be suspended *a divinis*. All who, by law, are suspected of heresy are, after having been admonished and punished in the aforesaid manner, considered heretics, and become liable to the penalties for heresy if they do not amend within six months after the first punishment.

VII. Prohibition from Legal Actions Is to Be Inflicted on:

1617. 1. persons suspected to heresy (Canon 2315);

2. persons who have attempted the crime of suicide (Canon 2350, § 1);

3. men guilty of rape, even though there be the intention of marrying the woman, or who elope with a girl of minor age without the knowledge or against the protest of parents or guardians, are *ipso facto* deprived of the right to legal actions (Canon 2353);

4. lay persons, who have been lawfully condemned for the crime of homicide, of rape against those not of the age of puberty, of real slavery or selling of a human individual for any evil purpose, usury, robbery, theft of very large amounts, incendiarism or other serious destruction of property, grave mutilation, wounding, violence, are *ipso facto* deprived of the right to legal actions, and of any position they may have in the Church (Canon 2354);

5. persons who have committed public adultery, who live in public concubinage, or have been lawfully condemned for other crimes of impurity, are to be forbidden the right to legal actions until they have given true signs of repentance (Canon 2357, 2);

6. Catholics who contract a mixed marriage, though validly, without a dispensation of the Church are *ipso facto*

deprived of the right to legal actions and of the sacramentals until they are dispensed by the Ordinary (Canon 2375);

7. religious who apostatize from the religious life, are in addition to incurring excommunication, *ipso facto* deprived of the right to legal actions and of active and passive vote. (Canon 2385.) Cf. Canon 2256 which specifies the actions forbidden by this prohibition.

VIII. Various Other Penalties "Ferendae Sententiae."

1618. 1. Privation of benefice, dignity, office, pension, or any other ecclesiastical position, and infamy of law is to be inflicted on apostates, heretics, schismatics, if after repeated admonition they do not amend. (Canon 2314, § 2.)

2. Laymen who pretend to hear confessions, or to say Holy Mass, are to be deprived of any position they hold in the Church, or any ecclesiastical pension. (Canon 2322.)

3. Clerics conspiring against the authority of the Roman Pontiff, his legates, or their own Ordinary, and against their lawful orders, are to be punished with censures and deprived of dignities, offices, benefices; religious shall be deprived of active and passive vote, and of the office they hold. (Canon 2331, § 2.)

4. Clerics who have recourse to any lay authority to obstruct the exercise of ecclesiastical jurisdiction of either the internal or the external forum, or who join the Masons or any other society of the same nature, shall, in addition to the excommunication incurred in virtue of Canons 2334 and 2335, be punished by suspension or privation of their benefice, office, dignity, pension, or any other position in the Church. Religious who are guilty of these offences shall be deprived of every office and of active and passive vote. Clerics and religious who join the Masons or any other similar society must, moreover, be denounced to the Holy Office. (Canon 2336, § 1.)

5. If a cleric continues for six months in the censure of suspension, he shall be admonished to amend, and if one month from the admonition has elapsed without result he shall be deprived of his benefice or office. (Canon 2340.)

6. Clerics who lay violent hands on a Cardinal or Papal Legate are to be deprived of benefices, offices, dignities, pensions, or any other position they hold in the Church. (Canon 2343, § 2.)

7. Clerics who usurp or retain by themselves, or through

others, goods and rights of the See of Rome, besides incurring *ipso facto* excommunication reserved to the Holy See *speciali modo,* are to be deprived of benefices, offices, pensions, and to be declared incapable of ever acquiring them. (Canon 2345.)

8. Clerics who unjustly appropriate to themselves Church goods of any kind, or consent that others steal them, besides incurring *ipso facto* excommunication reserved to the Holy See *simplici modo,* are to be deprived by their Ordinary of any benefice, and declared incapable of ever obtaining a benefice, and to be suspended for a time. (Canon 2346.)

9. If a religious superior or procurator alienates without the formalities required by Canons 534, § 1, and 1532, ecclesiastical goods worth more than two hundred and less than six thousand dollars, he shall be punished with privation of his office and with inability to acquire other offices; the Ordinary and other clerics who have an office, benefice, or position in the Church shall pay double the amount to the church or institution which they injured; other clerics shall be suspended for a time. (Canon 2347, § 2.)

10. Clerics guilty of attempted suicide shall be suspended for a time, and removed from benefices and offices to which the care of souls either in the internal or external forum is attached. (Canon 2350, § 2.)

11. Clerics guilty of homicide, rape on persons under the age of puberty, selling of human beings into slavery or for any other evil purpose, robbery, theft in very large amounts, incendiarism or other serious damage to property, of grave mutilation, wounding or violence, are to be punished with penances, censures and privation of offices, benefices, dignities, according to the amount of guilt. (Canon 2354, § 2.)

12. Clerics who falsify letters, decrees, or rescripts, of the Holy See, or knowingly make use of bogus letters, besides incurring *ipso facto* excommunication reserved to the Holy See *speciali modo,* are to be deprived of their benefice, office, dignity, pension; religious are to be deposed from office and deprived of active and passive vote. (Canon 2360, § 2.)

13. Priests who do not attend the diocesan conferences are to be punished by the Ordinary according to his judgment. Religious priests, who do not have the care of souls, but are approved for confession, are to be suspended from hearing con-

fessions of seculars if they, in violation of Canon 131, do not appear at the conferences. (Canon 2377.)

14. Clerics bound to residence in virtue of the office, benefice, or dignity which they hold, may be deprived of them in the manner laid down in Canons 2118-2175, if they seriously neglect the obligation of residence. (Canon 2381, § 2.)

15. He who, in violation of Canon 1406, neglects by his own fault to make the profession of faith before taking possession of the office or benefice, shall, if he, in spite of the admonition by the Ordinary nevertheless continues in his negligence, be punished with privation of the office or benefice. (Canon 2403.)

16. Those who are obliged in virtue of their office to write or to keep the records of the various ecclesiastical Curias or of parishes, are to be punished with privation of office, if they falsify, adulterate, destroy, or hide, the records. Those who refuse to show the records to persons entitled to inspect them, or to transmit a copy of the records to those who legitimately ask for it, are to be punished with privation of office or suspension from office, or with money fines, according to the discretion of the Ordinary. (Canon 2406.)

17. Those who demand fees for concessions of dispensations, etc., above the ordinary and legitimate charges as sanctioned by Canon 1507, are to be punished with heavy money fines and if they again fail in the same matter they are to be suspended or even removed from office, besides having the obligation of making restitution of the money which they thus unlawfully received. (Canon 2408.)

18. Superiors of religious, both of men and women, who interfere with the canonical visitation by intimidating, or otherwise inducing, their subjects not to tell the truth, or who molest them for having spoken freely to the visitor, are to be declared by the Visitor incapable of holding office, and to be deprived of the office they actually hold. (Canon 2413.)

19. Superioresses who interfere with the liberty the Code grants in the matter of the confessions of the sisters (Canons 518-530), are to be admonished by the Ordinary, and, if they fail again, to be removed from office, of which proceeding the Ordinary shall notify the S. Congregation of the Religious. (Canon 2414.)

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APPENDIX

THE ELECTION TO OFFICES IN RELIGIOUS COMMUNITIES

The elections in religious Orders and Congregations must, according to Canon 507, be conducted in accordance with the rules of the Code laid down in Canons 160-182, observing also the particular regulations for elections contained in the Constitutions of the religious organizations, provided they are not contrary to the laws of the Code. It will, therefore, be of value to religious organizations to find here in detail the rules which the Code prescribes for ecclesiastical elections. (Cf. Canons 504-507, Nos. 349-352.)

The election of the Roman Pontiff is solely governed by the Constitution of Pope Pius X. *"Vacante Sede Apostolica,"* Dec. 25, 1904, given in full in the Appendix to the Latin Code.

In other elections the rules of the following Canons are to be observed as also any particular laws which may have been legitimately passed for the election to certain offices. Regarding such particular laws, however, Canon 6, § 1 of the Code rules they are abolished in those points in which they are contrary to the law of the Code. (Canon 160.)

If a college, or body, of men or women has the privilege to elect a person to a vacant office, the election must not be delayed for more than three months from the time notice was received of the vacancy of the office. The term three months is here called *trimestre utile,* which means that there must have been a possibility for the election. If, therefore, for reason of war or other causes an election cannot take place within that time, the electors do not lose the right to vote. If without such good reason the electors let the time go by without coming to an election, the ecclesiastical superior who has the right to confirm the election, or to provide in case of invalid election, has

the right to freely appoint some one for the vacant office. (Canon 161.)

Saving particular regulations and customs for the convocation of the voters, the president of the election shall summon the voters in the usual form to a place and at a time convenient to the voters. If the particular regulations demand that the invitation to the election be given to each voter individually, it is sufficient for the validity of the convocation if the notification is sent to the domicile, or quasi-domicile, or actual residence, of the voters.

If more than one-third of the voters was not called, the election is *ipso jure* null and void. If those not called are nevertheless present at the election, the lack of convocation does not invalidate the election.

If there is question of election to an office which the elected holds for life, the convocation of the voters before the vacancy of the office has no legal consequence. (Canon 162.)

If the convocation has been legally made, only those present on the appointed day have the right to elect, and voting by letter or by proxy is excluded unless a particular law rules otherwise. (Canon 163.) If one and the same person has the right to vote under several titles, he can cast but one vote. (Canon 164.) No one outside the college of voters can be admitted to cast a vote, saving lawfully acquired privileges, otherwise the election is *ipso facto* null and void. (Canon 165.) If laymen interfere in any way in the election against the canonical freedom of the election, the election is *ipso facto* null and void. (Canon 166.)

The following persons cannot cast a vote:

1. Persons incapable of a human act.
2. Persons under the age of puberty.
3. Persons suffering from censure or infamy of law, if such censure or infamy has previously been announced by a declaratory or condemnatory sentence of an ecclesiastical judge.
4. Persons who have publicly joined an heretical or schismatical sect, or publicly adhere to such.
5. Persons deprived of active vote either through legal sentence of a judge, or by the common or particular law.

If any of the aforesaid persons are admitted to the voting, their vote does not count but the election is valid unless it is

certain that the elected would without the illegal vote not have the required number of votes, or a person excommunicated by a declaratory or condemnatory sentence has knowingly been admitted to the vote. (Canon 167.)

If any of the voters is present in the house in which the election takes place but cannot take part in the election on account of ill health, his written vote shall be obtained by the tellers, unless particular laws or legal customs provide otherwise. (Canon 168.)

The casting of the vote is null and void unless it is: (1) *free;* wherefore a vote is null and void if the voter was forced, by grave fear or deceit, either directly or indirectly, to cast his vote for a certain person, or for several persons separately; (2) *secret, certain, absolute, determined.*

The vote must be unconditional, wherefore any conditions attached to it are to be ignored. (Canon 169.) No one can cast validly a vote in his own favor. (Canon 170.)

Before the election at least two tellers from among the voters are to be appointed by secret vote, unless they are appointed by the proper statutes of the organization. The tellers, and also the president if he also is one of the college of electors, must take the oath to faithfully discharge their office, and to keep secret the transactions in the assembly even after the completion of the election.

The tellers shall with proper diligence take care that the votes are cast by each of the voters secretly, singly and in the order of precedence. After all the votes have been cast, they shall before the president of the election, and in the manner prescribed in their own proper constitutions or by legitimate custom, ascertain whether the number of votes corresponds to the number of voters, they shall open the ballots and make known how many votes each candidate received.

If the number of votes is larger than the number of voters the voting is null and void.

The ballots are to be burned immediately after each voting, or after the session if several votings were held in the same session.

All proceedings of the election shall be accurately recorded by the one who acts as secretary, to be subscribed at least by

the same secretary, the president and the tellers, and the minutes shall be carefully preserved in the archives of the college. (Canon 171.)

Unless the law rules otherwise, the election may be held also by compromise, if the voters by unanimous and written consent agree to transfer for that one election the right of election into the hands of one or several qualified persons of the college of voters, or also of outsiders, who shall by the power thus received perform the election in the name of all.

If there is question of a clerical college of voters, the persons chosen by compromise must be priests, otherwise the election is null and void.

The persons appointed by compromise must, under pain of nullity of the election, observe the conditions attached to the compromise, if they are not against the common law. If no conditions were attached they must observe the common law regulating elections; conditions against the law, however, are considered as though not added.

If the voters by compromise appointed only one person, this one cannot elect himself; if several were designated, no one of these can add his vote to that of the others who vote for him in order to make his election complete, that is, to obtain the necessary majority of votes. (Canon 172.)

The compromise ceases and the right of election is returned to the voters: (1) by recall of the college of voters before the persons appointed by compromise have commenced to make use of their right; (2) if one of the conditions of the compromise did not come true or was not adhered to; (3) if the election was indeed held but invalidly. (Canon 173.)

The person who obtained the majority of votes, as prescribed by Canon 101 (Cf. No. 78), is considered elected and is to be proclaimed as such. (Canon 174.) The election is to be made known at once to the person elected, and within eight days at the most from the time he received the information he must declare whether he accepts the election or not; otherwise he loses every right acquired by the election. (Canon 175.)

If the one elected renounces his election, he thereby forfeits all rights acquired by the election, though he should afterwards revoke his renunciation. He can, however, be again elected. The college of voters must proceed with a new election within

one month from the date on which they receive notice of the renunciation of the person first elected.

By the acceptance of the election the one elected obtains full rights immediately if he does not need any confirmation; otherwise he only acquires a *jus ad rem.*

Before confirmation has been received, the one elected is not allowed under the pretext of election to assume the office of administration, either in spiritual or temporal affairs, and any acts he might in the meantime have executed are null and void. (Canon 176.)

The person elected must, if he needs confirmation of the election, ask for it, either himself or through another, from the competent superior within eight days, otherwise he loses all rights, unless he can prove that he was prevented by some just impediment from asking for the confirmation.

The superior who has ascertained that the person elected is qualified, and that the election has been conducted according to the rules of law, cannot withold confirmation. The confirmation must be given in writing. With the confirmation the one elected obtains full rights to the office, unless the law rules otherwise. (Canon 177.)

If the election was not completed within the prescribed length of time, or if the college of voters has as a penalty been deprived of the right to hold the election, the free appointment to the office devolves on the superior who would have had the right to confirm the election, or who succeeds in the right of making provision for the office in question. (Canon 178.)

ELECTION BY POSTULATION.

If the election of the person whom the voters think most capable and preferable, is obstructed by some impediment on part of that person, and if the impediment is of a nature that it can be, and usually is, dispensed from, the voters can by their votes request the competent superior to allow this person's election, unless the law decrees otherwise, even if there is question of an office for which the elected person does not need confirmation. In the elections made by Religious, Canon 507 rules that election by postulation can be admitted only in extraor-

dinary cases and only if not forbidden by the constitutions of the particular religious organization.

The persons appointed by compromise of the voters to make the election, cannot postulate unless this is explicitly granted to them in the mandate or compromise. (Canon 179.)

In order that the postulation be valid the majority of votes must be in favor of it, and if it concurs with the election there must be at least two-thirds of the votes in favor of postulation. The vote for postulation must be expressed by the term *postulo,* or its equivalent; the formula *eligo vel postulo,* or an equivalent one, stands for election if there be no impediment, otherwise for postulation. (Canon 180.)

The postulation must be forwarded within eight days to the superior who has the power to confirm the election if he has also the power to dispense from the impediment; otherwise to the Roman Pontiff or to another authority having the needed faculty.

If the postulation was not sent to the superior within the prescribed time, it shall be *ipso facto* null and void, and the voters lose for this one election the right to elect or postulate, unless they can prove that they were prevented by a just impediment from forwarding the postulation. By the postulation the person named for the office does not acquire any right, and the superior may reject the postulation. After the presentation of the postulation to the superior, the voters cannot recall it except with the consent of the superior. (Canon 181.)

If the postulation was rejected by the superior, the right of election is restored to the college of voters, unless the voters knowingly postulated a person who was affected by an impediment of such nature that the dispensation could not be, or usually is not granted, in which case the provision for the office belongs to the superior.

If the postulation is approved, the person thus elected for the office is to be notified and he must within eight days answer whether or not he accept the appointment to office. If he accepts, he thereby immediately acquires full right to the office in the same manner as a person whose election is confirmed. (Canon 182.)

THE LATEST OFFICIAL DECREES AND DECLARATIONS ON VARIOUS POINTS OF THE CODE.

1. **Fast and Abstinence on Holidays of Obligation.** The Pontifical Committee for the authentic interpretation of the Code answers to the bishops of France that the obligation of fast and abstinence is not removed if some of the holidays of obligation of the Universal Church which have been abolished for France should fall on a day of fast or abstinence. Canon 1252 is therefore to be understood only in reference to holidays which are actually of obligation in a country. (Cf. No. 1095.)

2. **Application of Holy Mass on Sundays and Holidays.** The Code in Canons 339 and 466 rules that the bishops and pastors must apply Holy Mass for the people on Sundays and holidays, also suppressed holidays. The Holy See was requested to explain what days are meant by *suppressed holidays*. The answer is that in this matter nothing has been changed by the Code in the discipline of the Church hitherto in force. It has been stated repeatedly that by the holidays on which pastors and bishops must say Holy Mass for the people, are meant the feasts enumerated in the catalogue of Pope Urban VIII. (See No. 311 on page 79 in this book.) It is also quite certain from the wording of the Code that all pastors in the United States, and other countries not subject to the Propaganda, are pastors in the strict sense of the term. Unless, therefore, the Holy See grants a dispensation in view of the difficulties under which many a pastor in the United States is laboring, the decision given here seems to settle the matter as far as the interpretation of the law of the Code is concerned.

3. **The Number of Holidays of Obligation** as fixed by the Code are the only days of obligation, and the Holy See answers that holidays of obligation kept in some country or diocese, by reason of particular laws, ancient custom or special concession of the Holy See, are abolished as concerns the duty of hearing Holy Mass and abstaining from servile work. (Cf. Canon 1247, No. 1090; *Acta Ap. Sedis,* Vol. X, p. 170.)

4. In reference to the **Nuptial Blessing** there are the following declarations: 1. Since the Ordinary can permit the nuptial blessing also during the closed seasons (Cf. Canon 1108, No. 951), the question arises whether and how the commemoration *pro sponsis* is to be said if the nuptial blessing is allowed by the bishop on Christmas or on Easter Sunday. The answer is that the oration is to be added under one conclusion to the oration of the day; 2. To the question as to whether the votive Mass *pro sponsis* can be said during the closed seasons of Advent and Lent, the answer is that if the Ordinary for a good reason allows the solemn nuptial blessing, the votive Mass can be said except on Sundays, feasts of precept, feasts of the I. and II. class, privileged octaves of the I. and II. order, privileged ferias and the vigil of Christmas; 3. To the question as whether the votive Mass *pro sponsis* can be said on the privileged vigils of Pentecost and the Epiphany, the answer is that on neither vigil can this Mass be said. (Cf. *Acta Ap. Sedis,* Vol. X, p. 332.)

5. **Term of Office of Religious Superiors.** Canon 505 rules that the term of office of local superiors shall be three years, or at most six, in the same house. The question was proposed whether this rule is to be applied also to superiors or directors of schools, hospitals, and other pious or charitable institutions. The answer is that the law in question must be applied also to these superiors if they are not only presidents, directors, etc., but at the same time superiors of the religious community. (Cf. No. 350.)

6. **Impediments of Ordination.** By the law of Canon 987, n. 5, men held to the ordinary military service, in countries where all able-bodied young men are subject to compulsory military service, are forbidden to be ordained until they have served their term. The question was proposed to the Committee of the Code whether this prohibition holds, also if they are not yet of military age yet far enough advanced in studies to receive some orders, or if they have been called and examined and declared temporarily unfit. Furthermore, it was doubted whether this prohibition forbids reception of major orders only, or also of tonsure and the minor orders. The answer is that the prohibition holds in the proposed cases and for all orders.

7. **Betrothal Contract.** It has been decided by the Committee that the unjustified breaking of a betrothal contract

entitles only to a suit for damages, and that pending this suit marriage with a third party is not to be hindered by the pastor. Furthermore that the suit for damages spoken of in Canon 1017, § 3 is a matter of *mixed forum,* that is to say, suit can be brought either in the ecclesiastical or the civil court, at the option of the injured party. (Cf. No. 861.)

8. Knowledge of Christian Doctrine of People about to marry. As the parties should, according to Canon 1020, know the Christian doctrine, it was asked whether in case of gross ignorance the pastor is to delay marriage. The Committee answers that the pastor should rather teach them the elementary points of Christian doctrine. If the parties refuse to come for instruction, assistance at their marriage should not be refused, as is clear from the ruling of Canon 1066. (Cf. Nos. 863 and 909.)

9. Publication of the Banns and the Testimonium Libertatis. If it becomes very difficult to observe the law of Canon 1023 (Cf. 866) because the parties lived in various, very distant places, may the pastor resort to the supplementary oath tendered to the parties, so as to have certainty that they are not married already to some one else, or not held by other impediments? The answer of the Committee is that in such cases the pastor is to refer the matter to his bishop, who may use his own judgment as to what proof is sufficient, and who may also demand the oath.

10. Doubtful Impediment of Consanguinity. If illicit and secret intercourse had preceded the birth of a girl who is to be married, so that doubt arises whether she is perhaps a sister (natural or adulterous child) to the man, or his daughter in case of advanced years of the man, may marriage be allowed as long as there is a reasonable doubt concerning these relations? The Committee answers that Canon 1076, § 3, decides these cases by forbidding marriage absolutely as long as these impediments are in doubt.

11. Impediments of Marriage contracted before the Code came into force and now abolished. The Committee declares that engagement and marriage must be judged by the laws in force at the time these contracts were made. Impediments such as the fourth degree of consanguinity, third and fourth of affinity, affinity from illicit intercourse, and others which have

been abolished, cease to exist wherefore people who marry after Pentecost, May 19, 1918, are not held by these impediments though they had contracted them before the new law came into force. If, however, marriage was contracted before that date without a proper dispensation, the marriage is null and void and remains invalid, wherefore it must be validated either by dispensation, or by *sanatio in radice,* like any other invalid marriage.

12. Right of keeping the Blessed Sacrament in Churches and Chapels of Religious. The meaning of Canon 1267 (Cf. No. 1110) is according to the declaration of the Committee of the Code as follows: If the religious house, or pious institute, has a public church, and the community uses the same for the ordinary daily religious exercises, the Blessed Sacrament is to be kept in that church only. If this is not the case, the Blessed Sacrament may be kept in the principal chapel or oratory of the religious house or institute without prejudice to the rights of the church, if it should be entitled by law to have the Blessed Sacrament as, for instance, a parochial church. If there are several formally distinct and separate families in the same house or institution, each may have its own chapel with the Blessed Sacrament, just like so many different religious houses or institutions.

13. Clerical Societies without Vows. The Committee declares that the following Canons, about which there was some doubt, bind also the clerical societies without vows: Canon 2386 which rules that a religious who becomes a fugitive is *ipso facto* deprived of any office he holds, and if a cleric in major orders he incurs suspension reserved to the major superiors of the religious organization. Canon 2387, which states that a religious cleric whose profession is invalid through wilful fault on his part, is to be put out of the clerical rank, if he is in minor orders, and if he is in major orders he is *ipso facto* suspended until the Holy See shall provide for him. Canon 2389 which rules that religious who seriously violate the law of common life prescribed by the constitutions, and do not amend after serious admonition, may be punished with privation of active and passive vote, and privation of office if they are superiors. Canon 2410 which imposes suspension for a month from the celebration of Holy Mass on a superior who unlawfully sends his subjects for ordination to another diocese, this Canon applies to societies without vows if they have the privilege to issue dimissorial letters. The law of

Canon 2411 which demands that superiors be severely punished, not excluding privation of office, if they receive a candidate who does not have the requisite qualifications specified in Canon 542 (Cf. No. 387) or without the testimonials demanded by Canon 544 (Cf. No. 389), binds also clerical organizations without vows. Canon 2413 which rules that superiors who interfere in any way, directly or indirectly, with the visitation, or make it ineffective by influencing the subjects in any way, are to be declared by the visitor incapable of being elevated to any office, and are to be deprived of the office they hold, besides other penalties which the constitutions may impose. (*Acta Ap. Sedis,* Vol. X, p. 347.)

14. Latest Faculties of Bishops for Impediments of Marriage. By decree of the S. Consistorial Congregation, Aug. 2, 1918, the bishops of America, the Philippine Islands, the East Indies, Africa beyond the shores of the Mediterranean, and Russia, receive faculties for the period of the war to dispense from the impediment of mixed religion and from all diriment impediments of marriage except the priesthood and the *affinitas in linea recta, consummato matrimonio.* At the end of each year they shall make report to the S. Congregation of the Sacraments of the number and kind of dispensations which they have granted, and remit at the same time the fees due to the S. Congregation for the dispensations. (*Acta Ap. Sedis,* Vol. X, pag. 363.)

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